

ROY COWAN AND OTHERS

FEBRUARY 1, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. WILLIS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 6421]

The Committee on the Judiciary, to whom was referred the bill (H. R. 6421) for the relief of Roy Cowan and other individuals whose land was flooded by action of the Federal Government, having considered the same, report favorably thereon with amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Amend the title to read:

A bill for the relief of Roy Cowan and others.

This is a case where property owners claim damages for the flooding of their lands by reason of dams, ditches, and levees (constructed by the Fish and Wildlife Service of the Department of the Interior) on the natural runway of waters entering Lake Alice, Ramsey County, N. Dak., and flowing out to Lake Irvine, and thence in a southern direction in the channel of the Mauvais Coulee entering the Bay of Devils Lake, north of Grahams Island, N. Dak.

In the early history of Devils Lake the Grahams Island Bay and the Minnewaukan Bay to the west received the most of their waters, entering the lake through the Mauvais Coulee, and the area which this Coulee drained extended north to Rock Lake, N. Dak., which is about 3 miles long and extends nearly to the Canadian border. There is another Rock Lake just across the border. During all times mentioned herein the water in the North Dakota lake flowed north into Canada.

In the thirties a WPA project was undertaken under the direction of the Fish and Wildlife Service to bring water into Lake Alice and Lake Irvine, which were then dry.

To do this a dam was constructed on the north shore of North Dakota's Rock Lake which raised the level of the lake, and the water

of the lake was drained by ditch cut through the dividing elevation. The water in this lake could not flow north, as it was natural for it to do, on account of this high dam. The only escape for this impounded water was through the south ditch.

The water followed the ditch and an old runway to Lake Alice in Ramsey County. In earlier times the overflow waters from Lake Alice flowed in a southwesterly direction into Lake Irvine, and from Lake Irvine down the Big or Mauvais Coulee in a southerly direction and emptied into the Grahams Island Bay of Devils Lake.

For some unknown reason a dam was built on the south side of Silver Lake which was a part of nature's outlet into the Big Coulee.

When the Rock Lake Dam was completed and the water turned south instead of north as nature intended, an enormous amount of water not only filled Lake Alice, but overran its banks and spread out over about 30,000 acres of farmlands in Ramsey County, and for 10 years now much of this land has been entirely flooded. When a subcommittee of this committee made an examination of this flooded area on September 21, 1955, 15,000 acres were still flooded, water soaked and grown up to cattail rushes. In order to reach one farm, the members of the subcommittee had to cross a half mile of water and mud. The damage to these farms has been so severe and continuous for years that this rich land will have to be abandoned if the water is not stopped.

The principal object of bringing water into Lake Alice was to supply a home for ducks when Devils Lake itself had formerly supplied homes for millions of ducks, and this new man-made home for ducks was only 20 miles from Devils Lake.

There has been, for years, a clamor raised by many people in the Devils Lake country to fill up the lake, and some have clamored for a project to bring water for this purpose from the Garrison Dam at an expense to the Federal taxpayers of \$200 million. If the waters flowing southward from Rock Lake had been properly controlled by good engineering the three western bays of Devils Lake would now be filled at a nominal expenditure of money.

The claimants contend that faulty engineering has therefore damaged rich farmlands surrounding Lake Alice to an enormous extent and has prevented Devils Lake from filling up where one of the largest game reserves in the State would have been restored at a nominal cost.

The errors in engineering, according to the claimants, consisted of the following:

1. Damming up Rock Lake and turning the water south, without providing any drainage in the course of this water southward.

2. Failure to provide an outlet for the overflow of waters when Lake Alice was filled. Because of repeated protests from land-owners the engineers dug a ditch on the south side of Lake Alice to direct the water to Lake Irvine, but while this ditch was to be 12 feet wide and 8 feet deep, today this ditch appears to be no more than a muskrat trail through the rushes and water still flows over the banks of the lake onto this 30,000 acre tract of rich farming lands.

3. The dam erected at Silver Lake 10 miles south of Lake Irvine prevents the waters flowing out of Irvine from entering the Big Coulee, a natural water course into Devils Lake.

4. No attempt has been made to clear out the Dust Bowl deposits in the Big Coulee and the roads now constructed across it at several points. The Big Coulee outlet is no longer an outlet.

5. It is further contended by the claimants that the whole engineering process should and must be reversed as follows: Before any more waters are forced south from Rock Lake the outlet should be corrected. The place to start is to clear out the Big Coulee, remove the dam at Silver Lake, and clear out the Big Coulee as far as Lake Irvine, deepen and widen the outlet for Lake Alice, dike the south side of Lake Alice where the flooding waters have destroyed the boundaries of the lake, and then let the water flow south again from Rock Lake.

The estimate for this program in cost was placed at \$300,000 by the State engineer of North Dakota.

We are not engineers, but it is perfectly obvious to us, as we think it would be to any reasonable men who would take the trouble to read the record, that these farmers were damaged as the result of faulty engineering or negligence on the part of the engineers in failing to take proper measures to prevent the resulting damage. We are convinced that in designing a plan to provide refuge for ducks they gave little or no thought to what might happen to the farmers in the area. In that connection, we agree with the testimony of Mr. Mack V. Traynor, appearing in the transcript of the subcommittee hearings:

I think the picture is this, gentlemen: That the Fisheries and Wildlife had probably a good enough idea to start with, but very negligent in the execution of it; further that they did not plan for the future; did not plan for what happened, and as a result caused this damage to the people.

It is our duty to do justice and equity to these landowners for damages caused as the result of faulty engineering or negligence.

We, of course, have no control over the stopping of possible continuous damage in the future. In fact the bill, H. R. 6421, provides—

The payment of such sums shall be in full settlement of all claims of the persons so named against the United States arising by reason of the flooding of land in the vicinity of Lake Alice, North Dakota, * * *

We are, however, very much interested in seeing to it that corrective measures shall be taken as soon as possible to prevent further damage to these landowners.

On reaching the dam at the north end of Rock Lake the subcommittee found fresh work had been done on lowering the dam at one point and the outlet of the lake to the south had been partially planked up. So evidently the engineers through pressure are admitting their mistakes. But this is not enough. The water must be lowered in Lake Alice or this damage will continue and other claims will be filed and there will be no way of telling how many millions will be paid out in damages.

We are in favor of protecting ducks, but if we were forced to decide between protecting ducks or farmers, we would say, "Let the ducks fly 20 miles south into Devils Lake (it wouldn't take them long to do it) and protect this agricultural land from the costly errors of the engineers of the Federal Fish and Wildlife Service."

There seems now some hope that the errors herein set forth will be corrected as all agencies, State and Federal, expressed full cooperation at a meeting held in Devils Lake following the subcommittee's inspection. In that connection, we are pleased to quote the testimony

of Mr. Mylo W. Houisveen, State engineer and chief engineer for the North Dakota State Water Conservation Commission of Bismarck, N. Dak.:

Representative WILLIS. I am very much interested in this question of Mr. Burdick, because I think it would help our case if we can tell the members of the full committee that we have been given assurance that corrective steps are in active motion.

Chairman Lane. It is evident they are now.

Mr. HOUSVEEN. That is correct.

On the question of damages, Mr. F. E. Foughty, an attorney of Devils Lake, N. Dak., testified as follows:

The next point I would like to cover is the question of damages. What research we have done or made on it would appear that where damage is done to real estate by reason of flooding there are three theories on measure of damages:

1. The difference in the value of the land just before the flooding and right after the flooding takes place.

2. The loss of the rental value of the land caused by the flooding.

3. The loss of the value of the use of the land.

I have set out the three measures of damages, or theories of damages. Whatever theory would be applied by the committee would exceed the amount asked by each claimant, and that is \$10 per acre.

We agree that these claimants on an average suffered more than \$10 per acre, and accordingly we recommend the payment to the claimants of the sums set opposite their respective names in section 2 of the bill H. R. 6421.

DEPARTMENT OF THE ARMY,
Washington 25, D. C., September 20, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H. R. 6421, 84th Congress, a bill for the relief of certain individuals whose land was flooded by action of the Federal Government.

The Department of the Army has considered the above-mentioned bill. The bill provides for the payment of sums in amounts and to persons listed in section 2 of the bill as full settlement of all claims of the persons so named against the United States arising by reason of the flooding of land in the vicinity of Lake Alice, N. Dak., as a result of the activities of the Fish and Wildlife Service in connection with the establishment and maintenance of a migratory wildlife refuge.

Lake Alice is located in the Devils Lake Basin within the watershed of the Red River of the North. There are no authorized flood control improvements under the jurisdiction of the Department of the Army in the Lake Alice area, nor have studies been made of the flood and related problems in that area.

The Chief of Engineers advises that pursuant to congressional resolutions, an interim survey report on the Devils Lake Basin has been assigned to the district engineer, St. Paul district, under the supervision of the division engineer, north central division, Chicago, Ill. These studies will include investigation of the flood problem in the Lake Alice area. Preparation of the interim report will be initiated during the current fiscal year, but completion will be dependent upon future appropriations. Accordingly, the Department of the Army is not in a position to comment on the flood problems in this area until such time as the survey report investigations are well advanced.

In view of the need for furnishing a prompt report on the bill, the advice of the Bureau of the Budget has not been obtained with respect to this report. As soon as such advice is received, it will be forwarded to your committee.

Sincerely yours,

WILBER M. BRUCKER,
Secretary of the Army.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., August 24, 1955.

Hon. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CELLER: We have your letter of August 4 advising us of a public hearing to be held in North Dakota concerning the claims referred to in H. R. 6421, a bill for the relief of certain individuals whose land was flooded by action of the Federal Government. You advise that the Honorable Thomas J. Lane, the subcommittee chairman, has announced this hearing to be held in the Federal building at Devils Lake, N. Dak., on September 20, 1955, and that it will begin at 10 a. m. We shall appreciate receiving a copy of the transcript of this hearing for our subsequent use in preparing a report to your committee on H. R. 6421.

We shall be pleased, in furtherance of Mr. Lane's suggestion, to have a representative or representatives of this Department present at the hearing. We have requested the Fish and Wildlife Service to have a member or members of its staff in attendance. As we have not concluded our study of H. R. 6421, our representative will participate principally as an observer although he will be authorized to testify if your committee so desires. He will be instructed to be as helpful as possible to the subcommittee in reaching an appropriate decision and to answer any questions of fact of which he has knowledge. As our position concerning H. R. 6421 has not been determined, our representative cannot commit this Department with regard to the merits of the claims in question; however, we would have no objection if he so desires and if called upon to an expression of his personal opinions on other questions that may arise in connection with this matter. Our representative has not been selected as yet. He will be advised to notify Mr. Walter R. Lee of your staff upon his arrival at the hearing.

As the general water control problem in the area to which H. R. 6421 relates has been studied by the North Dakota Water Conservation Commission, by the United States Corps of Engineers, and by the United States Conservation Service, we believe that such agencies also may be of assistance to your committee in considering this matter.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

In the Matter of the Claims of Claimants Represented by Traynor & Traynor of Devils Lake, N. Dak., Against the United States of America for Flood Damage

STATEMENT OF MACK V. TRAYNOR OF TRAYNOR & TRAYNOR, ATTORNEYS FOR SAID CLAIMANTS

Now comes Mack V. Traynor of Traynor & Traynor, attorneys for certain claimants and makes the following statement with reference to H. R. 6421 and S. 2018, with reference to such claims and such claimants.

That such bills provide for certain payments to said claimants which is based upon the acreage flooded on the basis of \$10 per acre. That the acreage flooded as represented in said bills and the amounts allowed therefor is a conservative or underestimated acreage of each of said claimants so damaged and so flooded. That as representing said claimants, however, it is stated that said claimants are willing to accept the amounts provided in said bills for damages as represented by the claims they have filed in said matter, to wit:

Annie Elsperger-----	\$38, 990
John F. Elsperger and Kathleen Elsperger, his wife-----	31, 180
Robert M. Elsperger-----	288
Roman F. Elsperger-----	12, 110
Bernard F. Lange-----	3, 850
Roy A. Noltimier-----	23, 870
Donald Noltimier and Agatha Noltimier, his wife-----	29, 590
Henry Noltimier-----	700
Maude Wright Webster-----	8, 650
Ewald Henke-----	2, 900
Harry L. Overland and Bella Overland-----	25, 000
John Magnuson-----	13, 750
Roy G. Sylvester and Walter E. Sylvester-----	10, 500

That, furthermore, although the firm of Traynor & Traynor had a contract with said claimants on a 25-percent basis, still, in accordance with the terms and provisions of said bills, they are willing to accept as payment for their services the sum of 10 percent thereof, as provided in said bills.

Dated this 16th day of September A. D. 1955.

MACK V. TRAYNOR

(For Traynor & Traynor, Attorneys for said Claimants).

DEVILS LAKE, N. DAK.

In the Matter of Certain Claims Against the United States of America for Flood Damage in the Lake Alice Region of North Dakota

STATEMENT OF MACK V. TRAYNOR AS ATTORNEY FOR CERTAIN CLAIMANTS

Now comes Mack V. Traynor, as attorney for certain claimants herein, and respectfully petitions and shows the honorable Congress of the United States of America as follows, to wit:

I

That he is a member of the firm of Traynor & Traynor, attorneys at law of Devils Lake, N. Dak., and as such represents certain claimants in the matter of their claims against the United States on account of flooding of their lands by the Fish and Wildlife Service of the United States Department of Interior, and other Government agencies, and has filed certain claims on behalf of said claimants for the years 1948 through 1954, both inclusive, as follows, to wit:

Annie Elspenger	\$43, 850. 67
Additional claim filed for years 1940 through 1947	16, 000. 00
Total	\$59, 850. 67
John F. Elspenger and Kathleen Elspenger, his wife	113, 132. 32
Roman F. Elspenger	\$50, 277. 00
Additional claim filed for years 1946 and 1947	2, 000. 00
Total	52, 277. 00
Robert M. Elspenger	3, 252. 50
Roy Noltmier	\$97, 348. 35
Additional claim filed for the years 1945, 1946 and 1947	15, 000. 00
Total	112, 348. 35
Donald Noltmier and Agatha Noltmier, his wife	\$89, 392. 00
Additional for years 1945, 1946 and 1947	16, 500. 00
Total	105, 892. 00
Henry Noltmier	1, 504. 30
Roy G. and Walter E. Sylvester	23, 012. 50
Maude Wright Webster	40, 202. 50
John Magnuson	\$50, 502. 50
Additional claim for years 1945, 1946 and 1947	8, 700. 00
Total	59, 202. 50
Harry Overland and Bella Overland, as joint tenants with right of survivorship	105, 500. 00
Ewald Henke	9, 995. 00
Total	686, 169. 64

That reference is hereto made to such claims, the same as if the same were included herein verbatim.

II

That all of such lands are rich, fertile, and productive lands, and capable of producing large crops of grain, and have so produced large crops of grain, except when the same have been flooded.

That many or all of such claimants have had opportunities many times to rent their lands on a cash rental basis, when not flooded, for the purpose of growing potatoes, at annual rentals of \$10 to \$15 per acre.

III

That during the years, the claimants have made large investments in buildings, equipment, and farm machinery and other facilities so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That all of said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak., and Towner County, N. Dak.

IV

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the Coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the land surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rockfills and dams in the coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so as to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down into Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake, and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by these barriers, rockfills, and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened instead of having been dammed as has been done by the Fish and Wildlife Service.

V

That as part of said project, the Fish and Wildlife Service solicited and obtained certain easements to the United States of America, by and through the Secretary of Agriculture, three of which are pertinent to the claims of these claimants, and copies of which are hereto attached, marked "Exhibits A, B, and C."

That exhibit A refers to part of the land owned by claimant John Magnuson, and lots 1, 2, 3, and 4 of section 22, 156, 66 owned by claimants Donald and Agatha Noltimier.

That exhibit B refers to part of the land owned by claimant Robert M. Elsperger and part of the land owned by claimants John F. Elsperger and Kathleen Elsperger.

That exhibit C refers to part of the land owned by claimant Roman F. Elsperger.

That such easements were without any consideration to the landowners and are broad and all-inclusive, unilateral, and all for benefit of the United States. That in order to obtain such easements, however, it was represented to the parties giving such easements that the sole purpose was to fill Lake Alice, and that sufficient dams would be constructed around Lake Alice so as not to flood any adjoining lands; and that the project would be for the benefit of the landowners and not to their detriment, in that it would drain the water off their lands and into Lake Alice. That, however, sufficient dams were not constructed around the banks of Lake Alice, so as to retain the water therein, but that during such years the water overflowed the banks of said lake and flooded the adjoining lands, practically all of which was not included in any easements.

That no culverts were constructed in the dams that were placed around Lake Alice, so that when the water in Lake Alice receded, the water was retained on the surrounding lands and could not flow into Lake Alice, the level of which was lower than the water on the surrounding lands, and that flood conditions still exist on these surrounding lands.

VI

That most of said claimants have repeatedly made requests to the Fish and Wildlife Service to alleviate the situation, but nothing was done until the fall of 1954, when the Water Commission of the State of North Dakota became interested and rendered excellent service, and the Wildlife Service, in conjunction with the water commission, has, in part, removed part of the dam and obstructions in the Mauvais Coulee between Lake Alice and Lake Irvine, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow therefrom into Lake Alice. That this has given some temporary relief, but is not permanent or sufficient, but is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That it is alleged that the claims as heretofore filed by the above referred to claimants were fair and reasonable for their losses sustained during the years aforesaid. That in addition thereto, many of them have had their lands flooded for years prior to 1948, and that such claimants do not have any reasonable or adequate remedy at law for the recovery of the damages which they have sustained by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

VIII

That in order to partially reimburse these claimants for losses sustained, a bill has been introduced in the House of Representatives by Congressman Burdick, being H. R. 6421, and a companion bill has been introduced in the Senate by Senator Langer, and, although the amounts provided for therein would cover only a small amount of the losses of these claimants, still these claimants are willing to accept said sums, if appropriated and paid, covering their losses sustained because of the acts of such Government agencies during said years. That most of the years during which said lands have been flooded have ordinarily been productive and big crop years, with good prices, and these claimants were unable to profit thereby on account of such flooded conditions. That had the Fish and Wildlife Service done the things agreed to when the project was promulgated, the flood conditions would not have existed.

IX

That, as heretofore stated, the dam constructed by the Fish and Wildlife Service north of Rock Lake caused Rock Lake itself to overflow and the Fish and Wildlife Service augmented and increased the flow of water from Rock Lake by digging a channel to the south thereof, and causing much more water than ordinarily would have flowed down the Coulee into Lake Alice.

Dated this 22d day of June, A. D. 1955.

(For Traynor & Traynor, attorneys for the above-named claimants).

STATE OF NORTH DAKOTA,

County of Ramsey, ss:

Mack V. Traynor, being first duly sworn on oath, deposes and states that he is a member of the firm of Traynor & Traynor, attorneys for the above-named

claimants herein; that he has read the above and foregoing petition or statement and knows the contents thereof, and that the statements therein contained are true to the best of his knowledge, information, and belief.

MACK V. TRAYNOR.

Subscribed and sworn to before me this 22d day of June A. D. 1955.

[SEAL]

FLORENCE SANDERS,

Notary Public, Ramsey County, N. Dak.

My commission expires October 7, 1956.

EXHIBIT A

DOCUMENT No. 97856 EASEMENT

G. F. Lineburg, administrator E. Lysne Estate, grantors, in consideration of \$1, acknowledged as received, and the benefits to other lands of grantors, convey and warrant to the United States of America by and through the Secretary of Agriculture of Washington, D. C., and their successors and assigns forever;

The exclusive and perpetual right and easement to flood with water, and to maintain and operate an artificial lake, and/or to raise the water level of a natural lake or stream, upon the lands hereinafter described, by means of dams, dikes, fills, ditches, spillways, and other structures, for water conservation, drought relief, and for migratory bird and wildlife conservation purposes, and/or upon said lands and waters to operate and maintain a wildlife conservation demonstration unit and a closed refuge and reservation for migratory birds and other wildlife.

The lands upon and over which said exclusive and permanent rights and easements are granted are described as follows:

SW $\frac{1}{4}$ SE $\frac{1}{4}$, lots 3, 4, section 21, township 156, range 66; NW $\frac{1}{4}$ NE $\frac{1}{4}$ and lots 1 and 2, section 16, township 156, range 66; lots 1, 2, and 3 & 4, section 22, township 156, range 66. SW $\frac{1}{4}$ SE $\frac{1}{4}$, lots 3 & 4, section 16, township 156, range 66, lots 1, 2, section 21, township 156, range 66 and all riparian lands that accrue thereto in the County of Ramsey, and State of North Dakota.

And for said considerations it is expressly understood that the above specified sum, acknowledged as received, liquidates all damages whatsoever that have occurred or may occur on account of the construction, building or maintenance of said dams, dikes, fills, ditches, spillways, fences and other constructions, and in the filling and draining of said lake from time to time, or to their successors in title forever; provided that nothing contained herein shall at any future time be construed as including the rights to inundate by means of additional construction any or all of the above described lands beyond the point and/or area flooded by the completed original structure and/or construction.

Dated this 4th day of March 1935.

G. F. LINEBURG, [L. S.]
Administrator E. Lysne Estate

In presence of—

V. E. ANDERSEN.
JAMES A. LITTLE.

STATE OF NORTH DAKOTA,

County of Ramsey, ss:

On this 4th day of March, in the year 1935, before me, the undersigned, a notary public in and for the county and State aforesaid, personally appeared G. F. Lineburg, administrator, E. Lysne estate, known to me to be the person who is described in and who executed the within instrument and acknowledged to me that he executed the same.

[SEAL]

V. E. ANDERSEN,
Notary Public, Ramsey County, State of North Dakota.

My commission expires February 20, 1941.

Filed for record this 15th day of March 1935, at 1 p. m. in Book S Miscellaneous, page 242.

By:

TERESA McDONELL,
Deputy.
CATHERYN DEGNAN,
Register of Deeds.

EXHIBIT B

DOCUMENT No. 97860 EASEMENT

John Elsperger and Annie Elsperger, his wife, grantors, in consideration of \$1, acknowledged as received, and the benefits to other lands of grantors, convey and warrant to the United States of America by and through the Secretary of Agriculture of Washington, D. C., and their successors and assigns forever;

The exclusive and perpetual right and easement to flood with water, and to maintain and operate an artificial lake, and/or to raise the water level of a natural lake or stream, upon the lands hereinafter described by means of dams, dikes, fills, ditches, spillways, and other structures, for water conservation, drought relief, and for migratory bird and wildlife conservation demonstration unit and a closed refuge and reservation for migratory birds and other wildlife.

The lands upon and over which said exclusive and permanent rights and easements are granted are described as follows:

Lots 11, 13, 14, and 15 in Section 3, Township 156 North of range 66; west of the 5th P. M., and all riparian lands that accrue thereto, in Ramsey County, N. Dak., S½ lots 7 and 8 in section 2, township 156, range 66.

And for said considerations it is expressly understood that the above specified sum, acknowledged as received, liquidates all damages whatsoever that have occurred or may occur on account of the construction, building, or maintenance of said dams, dikes, fills, ditches, spillways, fences and other constructions, and in the filling and draining of said lake from time to time, or to their successors in title forever; provided that nothing contained herein shall at any future time be construed as including the rights to inundate by means of additional construction any or all of the above described lands beyond the point and/or area flooded by the completed original structure and/or construction.

Dated this 31st day of January 1935.

JOHN ELSPERGER [L. S.]
ANNIE ELSPERGER [L. S.]

In the presence of—
JOS. MAYOR,
RUDOLPH PEYERL.

STATE OF NORTH DAKOTA,
County of Ramsey, ss:

On this 31st day of January, in the year 1935, before me, the undersigned, a notary public, in and for the county and State aforesaid, personally appeared John Elsperger and Annie Elsperger, his wife, known to me to be the persons who are described in and who executed the within instrument and acknowledged to me that they executed the same.

[SEAL]

V. E. ANDERSEN,
Notary Public, Ramsey County, State of North Dakota.

My commission expires February 20, 1941.

Filed for record this 15th day of March 1935, at 1 p. m. in Book S Miscellaneous, page 244.

By:

TERESA McDONELL, *Deputy.*
CATHERYN DEGNAN, *Register of Deeds.*

EXHIBIT C

DOCUMENT No. 98479, EASEMENT

The First National Bank of Cando, Cando, N. Dak., a corporation, organized and existing under the laws of the State of North Dakota, with its principal office at Cando, N. Dak., grantor, in consideration of \$1, acknowledged as received, and the benefits to other lands of grantor, conveys and warrants to the United States of America by and through the Secretary of Agriculture, of Washington, D. C., and their successors and assigns forever:

The exclusive and perpetual right and easement to flood with water, and to maintain and operate an artificial lake, and/or to raise the water level of a natural lake or stream, upon the lands hereinafter described, by means of dams, dikes, fills, ditches, spillways, and other structures, for water conservation, drought relief, and for migratory bird and wildlife conservation purposes, and/or upon said lands and waters to operate and maintain a wildlife conservation demonstra-

tion unit and a closed refuge and reservation for migratory birds and other wildlife.

And lands upon and over which said exclusive and permanent rights and easements are granted are described as follows:

Lots 1, 8, 9, 17, and 18 in section 3, township 156 north, of range 66 west of the fifth principal meridian, in Ramsey County, N. Dak.; and all riparian lands that accrue thereto, in Ramsey County, State of North Dakota.

And for said considerations it is expressly understood that the above specified sum, acknowledged as recived, liquidates all damages whatsoever, that have occurred or may occur on account of the construction, building, or maintenance of said dams, dikes, fills, ditches, spillways, and other constructions, and in the filling and draining of said lake from time to time, or to the said lands, or to other lands of the grantor, or to it, or its seccessors in title forever; provided that nothing contained herein shall at any future time be construed as including the rights to inundate by means of additional construction any or all of the above-described lands beyond the point and/or area flooded by the completed original structure and/or constructions.

Dated this 30th day of January 1935.

[CORPORATE SEAL.]

Attest:

THE FIRST NATIONAL BANK OF CANDO,
By C. J. LORD, *President*.

C. J. HARRISON, *Cashier*.

STATE OF NORTH DAKOTA,

County of Towner, ss:

On this 30th day of January, in the year 1935, before me, the undersigned, a notary public in and for the county and State aforesaid, personally appeared C. J. Lord, known to me to be the president of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

[SEAL]

IONE ELSBERRY,
Notary Public, Towner County, State of North Dakota.

My commission expires August 29, 1935.

Filed for record this 9th day of September 1935, at 3 p. m. in Book S Miscellaneous on page 330.

CATHERYN DEGNAN,
Register of Deeds.

STATEMENT OF F. E. FOUGHTY BEFORE THE CLAIMS COMMITTEE OF THE HOUSE
OF REPRESENTATIVES OF THE UNITED STATES CONGRESS

Honorable Members of the Claims Committee of the House of Representatives of the United States Congress:

My name is F. E. Foughty, and I am a member of the firm of Erickstad & Foughty, practicing attorneys of Devils Lake, N. Dak. We represent the following claimants in the present proceedings:

Albert and Evelyn Moen, of Churchs Ferry; Dorothy Gessner, of Penn; Roy Cowan, of Churchs Ferry; Norris Larson, of Churchs Ferry; Joseph Hartl, of Maza; Reuben Overland, of Churchs Ferry; Allan Overland, of Churchs Ferry; C. N. Barrett, of Farmers Row, Groton, Mass., as agent for others; and L. A. Anderson, of Churchs Ferry, N. Dak.

All of the foregoing people are owners of land or interest in land surrounding the Lake Alice area in Chain Lakes Township, Ramsey County, N. Dak., and have been damaged by reason of the flooding of their farmlands.

The foregoing claimants made large investments in farm machinery, equipment, tools, warehouses, granaries, and other facilities for the purpose of farming the lands which we shall hereinafter describe but have been prevented from so farming for the reason that manmade structures across the channels of the drainage system in the area and to the north and south of the area have caused flooding of large parts of their farmland. The lands which have been flooded by reason of these manmade structures across the channels of the drainage system are in the vicinity of Lake Alice located in Chain Lakes Township, Ramsey County, N. Dak.

Flowing into Lake Alice from the north is a certain coulee named Mauvais Coulee. Mauvais Coulee has a large number of tributaries or creeks or streams running into it, covering the drainage from a large area to the north of Lake Alice

which is purported to be 704 square miles, according to information obtained from the map of the United States Department of Agriculture, Bureau of Biological Survey of the Lake Alice migratory waterfowl research, which map is submitted with this statement for the consideration of the committee. All of this area of 704 square miles drains into Mauvais Coulee and converges at the inlet at the north end of Lake Alice and flows through Lake Alice, then from the outlet of Lake Alice located at the south west shore of Lake Alice into Lake Irvine, then out of Lake Irvine into Mauvais Coulee and continues to flow through Mauvais Coulee until the same reaches Devils Lake which is at the present time partially dry.

The drainage area above mentioned, north of Lake Alice, is pictured on the map which we have herewith submitted and also on the Rock Lake Towner County map, or photographic copy thereof, of the United States Department of Agriculture, Bureau of Biological Survey, which we are herewith submitting at this time, for the consideration of the committee, in addition to the one we have just submitted.

To the north of Lake Alice, to the south of a large lake known as Rock Lake, there is a drainage divide, and at this divide the natural drainage of the area to the north of this divide is to the north through the various branches of Rock Lake into a coulee which then flows north into Canada.

A number of years ago, prior to 1948, the Fish and Wildlife Service of the United States Department of the Interior, or its predecessors, constructed a dam across the northeast outlet of Rock Lake and also caused to be constructed a dike or dam across the northwest outlet of Rock Lake. These dams and dikes caused the water in Rock Lake to raise a number of feet; and in addition, there was constructed by the Fish and Wildlife Service, or its predecessors, a canal or drainage ditch through the drainage divide south of Rock Lake. These dams and dikes and this ditch caused additional amounts of water to flow south instead of north as they would have done had there been no interference with the natural drainage of the area, all of which additional water eventually reached the Lake Alice vicinity. The drainage area of Rock Lake, according to the maps which have heretofore been submitted to the committee, is 75 square miles. Part of the water from this drainage area was caused, by these man-made structures mentioned heretofore, to flow south into the Lake Alice area instead of north into Canada, and that was the purpose, or at least part of the purpose, for this construction of these dikes, dams, and ditch above mentioned. Some increase in the flow of water through the Lake Alice area has been caused by the drainage of sloughs, potholes, and other lowlands into the drainage system, all of which has been encouraged and a great part of the same supervised by the Soil Conservation Service of the United States Department of Agriculture. We believe, however, that this additional drainage by farmers has only been an aggravation of the flood conditions existing in and around Lake Alice and not a primary cause thereof.

The Fish and Wildlife Service of the United States Department of the Interior, or its predecessors, did construct or cause to be constructed and have under their control a certain road known as the Wildlife Road which runs around the northeasterly side of Lake Alice and across the inlet of Lake Alice located at the north end of the lake. In the construction of this road the Fish and Wildlife Service or its predecessors failed and neglected to put proper drainage culverts through the road so that the water flowing from the north might enter Lake Alice. As a consequence of the construction of this road without proper drainage culverts running through it, great amounts of water have built up on the north side of the road and have flowed or been deflected around the east side of the lake and have caused the water to back up for great distances to the north of Lake Alice, and generally have interfered with the natural flow of water in the natural water course which would in the natural course of events flow through Lake Alice and through Lake Irvine and on into Mauvais Coulee and on into Devils Lake.

We are submitting with this statement a picture of this road which shows that it acts as a dam or dike in retaining the water and deflecting it around to the east side of Lake Alice where it causes a great amount of flooding of the claimants' lands.

The Fish and Wildlife Service or its predecessors constructed a dam or spillway or barrier across the outlet of Lake Alice as is shown on the map which has been previously submitted. In addition to the construction of the dam and spillway, the channel for some distance to the south beyond the dam and spillway was filled in. There is a sectional drawing of the outlet ditch on the map we have previously submitted, showing the extent that the outlet of Lake Alice was filled in. This filling of the channel and construction of this dam and spillway caused the water of Lake Alice to rise to such an extent that the banks of the Lake

overflowed, inundating the surrounding area, the lands of the claimants, during the spring and rainy seasons.

There has also been constructed on Mauvais Coulee to the south other barriers across the water channel of the coulee, particularly Silver Lake Dam and dike, which greatly slows down the flow of water flowing from Lake Alice during the rainy or wet season and thereby causes buildup of water to the north of Silver Lake Dam by slowing down the flow of the water in the Mauvais Coulee water channel which, in turn, impedes the runoff of the water in the Lake Alice area during the spring and wet season of the year.

The lands adjacent to and surrounding Lake Alice are quite level, and the drop in elevation in the water channel from Lake Alice on to Devils Lake is only a small drop per mile so that any slight interference with the natural flow of water in the channel from Lake Alice during the wet or rainy season can and does cause great injury through flooding of the lands in the area surrounding Lake Alice.

In connection with this statement we would like the committee to consider the following pictures: The first shows part of the ditch made to the north of Rock Lake through which the overflow from Rock Lake was run into a southerly direction so as to eventually reach the Lake Alice area. The second picture is one taken of the dam which is pointed out by the arrow, which was constructed on top of the filled channel, which is at the outlet of Lake Alice. The other two pictures are pictures taken of the spillway area after the barrier was removed by the Wildlife Service with the cooperation and help of the State water commission.

Some of the present owners and some of the previous owners in connection with the wildlife project in the Lake Alice area signed easements to the Secretary of Agriculture permitting the use of their land in connection with the wildlife refuge. I am attaching the easement given by P. N. Gilberg, the former owner of the lands now owned by the claimants, Albert and Evelyn Moen. The easements given by the other landowners were substantially in the same form, with some variances. These easements were given without any consideration by the landowners, and are broad and all inclusive, and are for the entire benefit of the United States without any corresponding benefits to the signers thereof. In order to obtain such easements the representatives of the United States represented to the parties giving such easements that the full purpose was to fill Lake Alice and that sufficient diking would be done in and around Lake Alice so as not to flood any adjoining land, and that the project would be for the benefit of the landowners and not to their detriment in that it would permit the draining of water off their lands into Lake Alice. However, there has not been sufficient diking done around the banks of Lake Alice so as to retain the water flowing therein, and as a consequence from year to year water has overflowed the banks of the lake and flooded the adjoining lands. Most of the lands so flooded were not included in the easements obtained by the United States Government.

On the map previously submitted, over on the right-hand side is a drawing marked "Project easement map" which we believe substantially sets out all of the land upon which the Government has obtained easements in substantially the same form as that given by Peter N. Gilberg and his wife, a copy of which is attached hereto.

It should be noticed that most of the lands which have been flooded are outside the land upon which easements were obtained. In fairness to the parties who have signed these easements, all lands, whether covered by easement or not, we believe should be dealt with on equal terms and without any discrimination between the land upon which there was an easement and upon the land where there was no easement obtained for the reason that such easements were obtained by representations which were not fulfilled on the part of the Government and without any consideration having been given therefor whatsoever.

Corrective measures were taken in December of 1954 by the Fish and Wildlife Service to alleviate the flooding in the Lake Alice area. Channels were blown out through the Wildlife Road to permit the passage of the water from the north of Lake Alice into Lake Alice, and also the channel and dam at the outlet of Lake Alice were blown out to permit the passage of water from Lake Alice. It is our understanding that the State water commission paid half the expense of these corrective measures and that the Fish and Wildlife Service paid the other half thereof. These corrective measures taken by the Wildlife Service have been a tremendous help in alleviating the flood conditions in the Lake Alice area.

Attached hereto and made a part of this statement is a statement showing loss of use of land for each of the claimants whom we represent. These statements showing loss of land use set out the year, the description of the land and the

number of acres of land lost each year on the land described. The bill providing for the payment of the claims which has been introduced by the Honorable Usher L. Burdick provides for compensation to the claimants on the basis of \$10 per acre per year, insofar as the claimants we represent are concerned. However, in the case of Norris Larson, one of the claimants, he is interested in the land upon which he makes claim to the extent of only one-half therein, whereas the bill provides for payment to him on the basis of a 100 percent interest in the production of the land so that in order to put the claim of Norris Larson in line with the other claims on the basis of \$10 per acre, the amount set out in the bill allocated to Norris Larson should be cut in half. However, of course Norris Larson would have no objection to the bill being O. K.'d by the committee as it stands, but we wish to bring this matter to the attention of the committee so that they may take whatever action they desire relative to the same.

The claimants would have had far less injury had their land flooded and remained flooded than they would under the facts that existed in the present case. The land would flood during the spring of the year, and if we had little moisture during the winter the reservoir constituting Lake Alice would, of course, hold the water and what little flooding there was on the land adjoining Lake Alice would go into the soil and the land could be farmed. However, when more moisture fell in the way of snow and rain, and when the seasons were wetter the reservoir which constituted Lake Alice would not hold the water, and the banks would overflow and the surrounding territory would be thoroughly flooded, and it would take as high as 3 years for the flooded lands to dry up sufficiently so that all of the same could be farmed again. However, after the first year of flooding, part of the land would dry up so that the farmer could put part of the lands which were flooded under cultivation the following year.

In other words, the situation was such that the farmers in the area had hope that their lands could be farmed, if not the present year the following year, or that a greater part of the same could be farmed the following year. Based on this hope of farming the lands the farmers would, of course, cultivate the soil and prepare the same for seeding; and in a great number of cases just before the flooding took place the lands had been fully prepared for seeding, or at least the plowing had been done as it is the usual practice in this area to fall plow. In the year 1954 the flooding did not take place until we received heavy June rains and the crop had all been planted and some of the grain had headed or was beginning to head at the time the flood came in and destroyed the crops. The situation of the claimants was such that they were prepared to farm, and in certain instances made extensive preparation for farming all through the years that they were plagued by the flooding, but were prevented from farming the lands by reason of the flooding.

For the foregoing reasons in the instant case the claimants' injuries were much greater than where land is flooded and then remains permanently flooded for in that case the farmer would look elsewhere for lands to farm and not put forth his labor and expense in trying to farm.

The years 1948 to the present time have been years of relatively high farm prices so that the damage as suffered by the claimants has been very high. Ten dollars an acre per year will not compensate the claimants for the actual damage they have suffered by reason of the flooding. However, it will be a tremendous lift for them and will, I believe, permit most of them to survive economically. Without compensation for the losses which the claimants have suffered by reason of the flooding, a good many of the claimants will not be able to survive economically.

From what research we have done in the law, there would appear to be three theories of measurement of damages where injury is done to real estate by reason of flooding. They are:

1. The difference in the value of the land just before the flooding and right after the flooding takes place.
2. The loss of the rental value of the land caused by the flooding.
3. The loss of the value of the use of the land.

No matter what measure of damages is used in the present case we believe the determination of the damages suffered would far exceed \$10 per acre per year. However, the claimants are willing to accept \$10 per year per acre in full settlement of their claims up to and including 1954 as is provided in the bill introduced for their benefit. It does not appear that these claimants have any adequate remedy at law, and it appears that the only place that they can obtain relief in this instance is by a bill passed by Congress for their benefit, compensating them for the injuries they have endured by reason of the acts of the agencies of the

Federal Government in interfering with the natural drainage to and from the area around Lake Alice.

In closing, I urge the committee to give bill H. R. 6421 their approval in the interest of fairness to the claimants to be benefited by the passage of this bill, and I wish to thank the committee for the consideration they have given us thus far in this matter.

Respectfully submitted.

F. E. FOUGHTY

(For Erickstad & Foughty, Attorneys for the Claimants).

In the Matter of the Claim of Roy A. Noltimier of Churchs Ferry, N. Dak.,
Against the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant, Roy A. Noltimier, and to further substantiate his claim or claims against the United States of America, respectfully petitions and shows the Honorable Congress of the United States as follows, to wit:

I.

That the petitioner is the owner and operator of the lands hereinafter described during all of the times herein referred to. That all of such lands are rich, fertile, and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

That said land is described as follows, to wit:

Lot 5 of section 21; southeast quarter of section 28; lots 1, 2, 3, and 4 and the southeast quarter of the southeast quarter of section 32; and the northeast quarter of section 33, all in township 156 north of range 66 west, in Ramsey County, N. Dak.

Southeast quarter and the southeast quarter of the southwest quarter of section 5, in township 155 north of range 66 west, in Ramsey County, N. Dak.

II

That during such years, said petitioner has made large investments in buildings, equipment, farm machinery and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rock fills and dams in the Coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so as to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. Therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Churchs Ferry, greatly slowing up the flow of water in said Coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife Service by these barriers, rock fills and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That this petitioner has heretofore filed a claim with the Congress in this matter, and the same is referred to herein, the same as if made a part hereof verbatim. That his total claim so filed for the years 1948 through 1954 amounted to \$97,348.35, and his claim for damages for the years 1945, 1946, and 1947 amounted to \$15,000, making a total claim of \$112,348.35.

V

That at the present time a considerable portion of petitioner's land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the water commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VI

That this petitioner does not have any reasonable and adequate remedy at law for the recovery of the damage which he has suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

VII

That this claimant is named as one of the persons in H. R. 6421, and the amount provided therein for this claimant is the sum of \$23,870. That this claimant urges that said bill be passed by the Congress, and he is willing to accept said amount in full settlement of the claim that he has heretofore filed as above stated.

That the said H. R. 6421 was introduced by Hon. Usher L. Burdick, Congressman from North Dakota, and a companion bill has been introduced in the Senate by Hon. William Langer, Senator from North Dakota, being S. 2018.

VIII

That the dam which was placed in the Coulee by the Fish and Wildlife Service south of Churchs Ferry was put there for the purpose of diverting water from the Coulee into Silver Lake, which was not its natural channel. That when the wet years came, along about 1945 and subsequent years, Silver Lake filled up naturally and the result was that the water backed up therefrom into this ditch and back into the Coulee and backed up toward the north.

That the Fish and Wildlife Service has attempted to correct this in part by opening up part of this dam, but not sufficiently so as to let the water flow down the Mauvais Coulee in the natural way. That Silver Lake fills in naturally from the Leeds area toward Lake Ibsen, and then this ditch that was constructed between the Lake and the Mauvais Coulee served as an overflow or outlet from Silver Lake, and thus backed up and caused flood and damage to this claimant's lands.

That this claimant has complained many times to the Fish and Wildlife Service about this dam, but they have consistently refused to do anything of any material value toward relieving this situation.

IX

That in 1950, representatives of the Fish and Wildlife Service conferred with this claimant, and they agreed to remove this dam from the Mauvais Coulee south of Churchs Ferry, now to the bottom. That they did employ Ted Kimmes of Devils Lake, N. Dak., but the dam was only lowered about a foot and a half, so that the situation was not relieved.

That in 1954, representatives of the Fish and Wildlife Service again conferred with this claimant, and promised to have this dam blown out clear to the bottom and to make the channel about 75 feet wide. That they did do a little work, but never entirely blew out the dam down to the bottom or bed of the Coulee, and to the extent of only about 40 feet in width.

That the representatives of the Fish and Wildlife Service who conferred with this claimant in 1950 were Huey of Minneapolis, and Taylor of Washington, D. C.

That other representatives of the Fish and Wildlife Service who conferred with claimant were Larry Dugal of Minot, N. Dak., and a man by the name of Carpenter.

WHEREFORE, this petitioner respectfully petitions the honorable Congress of the United States that said H. R. 6421 and/or the companion bill in the United States Senate, being S. 2018, be approved by the respective committees and passed by the Congress.

Dated this 22d day of June A. D. 1955.

ROY A. NOLTIMIER.

STATE OF NORTH DAKOTA,
County of Ramsey, ss:

Roy A. Noltimier, being first duly sworn on oath, deposes and states that he is the claimant and petitioner herein; that he has read the above and foregoing petition by him executed and knows the contents thereof, and that the statements therein contained are true of his own knowledge, except as to matters stated therein on information and belief, and as to such matters he believes the same to be true.

ROY A. NOLTIMIER.

Subscribed and sworn to before me this 22d day of June A. D. 1955.

[SEAL]

MACK V. TRAYNOR,
Notary Public, Ramsey County, N. Dak.

My commission expires August 1, 1958.

In the Matter of the Claim of Roy A. Noltimier, Churchs Ferry, N. Dak., Against
the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the Honorable Congress of the United States as follows, to wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile, and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery, and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service during the latter part of the 1930's, did the following things, to wit:

(a) Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

(b) That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

(c) That the said Fish and Wildlife Service also placed rock fills and dams in the coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

(d) That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and prompted farmers to dig drainage ditches, so to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

(e) That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake, and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by these barriers, rock fills and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years 1945, 1946, and 1947, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of \$15,000.

VI

That at the present time a considerable portion of petitioner's land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the Water Commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

VIII

That petitioner farmed the land involved herein, either as owner-operator, or as operator, during the years 1945, 1946, and 1947, and his losses for such years are shown in paragraph V herein.

Wherefore, your petitioner(s) respectfully petitions (petition) the honorable Congress of the United States that an appropriate bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 11th day of February 1955.

ROY A. NOLTIMIER, *Petitioner.*

Claim of Ray A. Noltmier

RECAPITULATION

Years 1948 through 1954:

Lot 5 of sec. 21; SE $\frac{1}{4}$ of sec. 28; lots 1, 2, 3, and 4 and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of sec. 32; and the NE $\frac{1}{4}$ of sec. 33, all in township 156 N. of R. 66 W., in Ramsey County, N. Dak.	\$78,426.35
SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of sec. 5, in township 155 N. of R. 66 W., in Ramsey County, N. Dak.	18,922.00

Total	97,348.35
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Claim for damages for the years 1945, 1946, and 1947	15,000.00
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Total	112,348.35
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Lot 5 of sec. 21; SE $\frac{1}{4}$ of sec. 28; lots 1, 2, 3, and 4 and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of sec. 32; and the NE $\frac{1}{4}$ of sec. 33, all in township 156 N., of R. 66 W., in Ramsey County, N. Dak., 441 acres

1948 (242 acres flooded—would have seeded):

160 acres of wheat, 20 bushels per acre, 3,200 bushels, at \$2.50	\$8,000.00
82 acres of barley, 50 bushels per acre, at \$1.45	5,945.00

Total	13,945.00
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Less cropping expense of \$14 per acre	3,388.00
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Loss for 1948	\$10,557.00
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Lot 5 of sec. 21; SE¼ of sec. 28; lots 1, 2, 3, and 4 and the SE¼ of the SE¼ of sec. 32; and the NE¼ of sec. 33, all in township 156 N., of R. 66 W., in Ramsey County, N. Dak., 441 acres—Continued

1949 (287 acres flooded):	
167 acres wheat, 21 bushels per acre, at \$2.45 per bushel-----	\$8, 590. 95
120 acres barley, 45 bushels per acre, at \$1.35 per bushel-----	7, 290. 00
Total-----	15, 880. 95
Less cropping expense, at \$14.50 per acre-----	4, 161. 50
Loss for 1949-----	\$11, 719. 45
1950 (427 acres flooded; 40 acres summer fallow):	
200 acres wheat, 30 bushels per acre, at \$2.40-----	\$14, 400. 00
187 acres barley, 50 bushels per acre, at \$1.25-----	11, 687. 50
Total-----	26, 087. 50
Less cropping expense of \$14.50 per acre-----	4, 611. 50
Loss for 1950-----	21, 476. 00
1951 (310 acres flooded; 40 acres summer fallow):	
160 acres wheat, 20 bushels per acre, 3,200 bushels, at \$2.40-----	\$7, 680. 00
60 acres barley, 45 bushels per acre, 2,700 bushels, at \$1.35-----	3, 645. 00
50 acres flax, 15 bushels per acre, 750 bushels, at \$4.50-----	3, 375. 00
Total-----	14, 700. 00
Less cropping expense of \$14 per acre-----	3, 780. 00
Loss for 1951-----	10, 920. 00
1952 (200 acres under water):	
100 acres of wheat, 18 bushels per acre, 1,800 bushels, at \$2.50-----	\$4, 500. 00
20 acres barley, 40 bushels per acre, 800 bushels, at \$1.25-----	1, 000. 00
80 acres flax, 17 bushels per acre, 1,360 bushels, at \$4-----	5, 440. 00
Total-----	10, 940. 00
Less cropping expense, at \$15 per acre-----	3, 000. 00
Loss for 1952-----	7, 940. 00
1953 (155 acres flooded):	
50 acres wheat, 16 bushels per acre, 800 bushels, at \$2.20-----	\$1, 760. 00
40 acres barley, 25 bushels per acre, 1,000 bushels, at \$1.15-----	1, 150. 00
65 acres flax, 15 bushels per acre, 975 bushels, at \$3.70-----	3, 607. 50
Total-----	6, 517. 50
Less cropping expense of \$15 per acre-----	2, 325. 00
Loss for 1953-----	4, 192. 50
1954 (flooded after planting—355 lost):	
105 acres wheat, 12 bushels per acre, 1,260 bushels, at \$2.15-----	\$2, 609. 00
120 acres barley, 30 bushels per acre, 3,600 bushels, at \$1.15-----	4, 150. 00
130 acres flax, 16 bushels per acre, 2,080 bushels, at \$3.03-----	6, 302. 40
Total-----	13, 061. 40
Less harvesting expense, at \$4 per acre-----	1, 420. 00
Loss for 1954-----	11, 621. 40

SE¼ and the SE¼ of the SW¼ of sec. 5 in T. 155 N. of R. 66 W. in Ramsey County, N. Dak.

1948 (57 acres flooded):		
57 acres of wheat, 20 bushels to the acre, 1,140 bushels, at \$2.50-----	\$2, 850. 00	
Less cropping expense of \$14 per acre-----	770. 00	
Loss for 1948-----		\$2, 080. 00
1949 (80 acres flooded out):		
40 acres of wheat, 21 bushels per acre, 810 bushels, at \$2.45-----	\$1, 184. 50	
40 acres of flax, 18 bushels per acre, at \$6-----	4, 320. 00	
Total-----	5, 504. 50	
Less cropping expense for 80 acres, at \$14.50 per acre-----	1, 160. 00	
Loss for 1949-----		4, 344. 50
1950 (144 acres flooded, 20 acres summerfallow:)		
80 acres of wheat, 30 bushels per acre, 2,400 bushels, at \$2.40-----	\$5, 760. 00	
44 acres of flax, 18 bushels per acre, 792 bushels, at \$6-----	4, 942. 00	
Total-----	10, 702. 00	
Less cropping expense, \$13 per acre-----	1, 612. 00	
Loss for 1950-----		9, 090. 00
1954 (130 acres flooded after seeding):		
65 acres of wheat, 12 bushels per acre, 789 bushels, at \$2.15-----	\$1, 677. 00	
65 acres of barley, 30 bushels per acre, 1,950 bushels, at \$1.15-----	2, 242. 50	
Total-----	3, 919. 50	
Less harvesting expense, \$4 per acre-----	512. 00	
Loss for 1954-----		3, 407. 50

In the Matter of the Claim of John F. Elsperger and Kathleen Elsperger, His Wife, of Maza, N. Dak., Against the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the Honorable Congress of the United States as follows, to wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile, and productive, and capable of producing large crops of grain, and have so produced and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rock fills and dams in the Coulee between Lake Alice and Lake Irvine and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States, urged and promoted farmers to dig drainage ditches, so to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake, and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife Service by these barriers, rock fills, and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years -----, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of ----- dollars.

VI

That at the present time a considerable portion of petitioners' land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the Water Commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

VIII

That the claimant John F. Elspurger lived with his parents prior to 1948 and worked with his parents on these lands so personally makes no claim for damages prior to the year 1948.

WHEREFORE, your petitioner(s) respectfully petitions (petition) the Honorable Congress of the United States that an appropriate bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 10th day of February 1955.

JOHN F. ELSPERGER, *Petitioner.*
KATHLEEN ELSPERGER, *Petitioner.*

Claim of John F. Elspurger

RECAPITULATION

Years 1948 through 1954:

Lots 1, 2, 7, 8, 9, and 10 of sec. 2—156 north of range 66 west, Ramsey County, N. Dak.....	\$33, 137. 39
Lots 12, 13, and 14 of sec. 2—156 north of range 66 west, Ramsey County, N. Dak.....	3, 219. 00
Lots 16 and 18 of sec. 3—156 north of range 66 west, Ramsey County, N. Dak.....	7, 176. 25
East half of east half of sec. 9, in township 156 north of range 66 west, Ramsey County, N. Dak.....	6, 390. 00
Lots 11, 13, 14, and 15 of sec. 3, in township 156 north of range 66 west, in Ramsey County, N. Dak.....	18, 138. 93
North half of northwest quarter of sec. 1, in township 156 north of range 66 west, in Ramsey County, N. Dak.....	17, 826. 25
Sec. 10, in township 156 north of range 66 west, in Ramsey County, N. Dak.....	5, 694. 50
Southwest quarter of sec. 31, in township 157 north of range 65 west, Towner County, N. Dak.....	21, 550. 00
Total.....	113, 132. 32

Lots 1, 2, 7, 8, 9, and 10 of sec. 2, T. 156 N., R. 66 W., in Ramsey County, N. Dak., 198.55 acres

1948 (none seeded; all flooded) would have seeded:

40 acres summer fallow.....	
80 acres flax, 18 bushels, at \$6.....	\$8, 640. 00
72½ acres barley, 50 bushels, at \$1.45.....	5, 691. 45
Total.....	14, 331. 45
Landowner's share ¼.....	3, 582. 86
Total.....	10, 748. 59
\$15 expense for seeding and harvesting.....	2, 371. 09
Loss for 1948.....	\$8, 371. 09

Lots 1, 2, 7, 8, 9, and 10 of sec. 2, T. 156 N., R. 66 W., in Ramsey County, N. Dak., 198.55 acres—Continued

1949 (none seeded; all flooded) would have seeded:

50 acres summer fallow.	
120 acres wheat, 20 bushels, at \$2.50-----	\$6,000.00
28½ acres flax, 18 bushels, at \$3.75-----	1,923.75
Total-----	7,923.75
Landowner's share, ¼-----	1,980.94
Total-----	5,942.81
\$15 expense for seeding and harvesting-----	2,227.50

Loss for 1949-----

\$3,715.31

1950 (None seeded; all flooded) would have seeded:

50 summer fallow.	
78½ wheat, 30 bushels at \$2.40-----	\$5,652.00
70 barley, 50 bushels at \$1.25-----	4,375.00
	10,027.00
Landowner's share, ¼-----	2,506.75
	7,520.25
\$15 expense for seeding and harvesting-----	2,227.50

Loss for 1950-----

5,292.75

1951 (20 acres barley seeded) would have seeded:

40 summer fallow.	
50 wheat, 20 bushels, at \$2.40-----	\$2,400.00
20 barley, 50 bushels, at \$1.35-----	1,350.00
68½ flax, 15 bushels, at \$4.50-----	4,623.75
	8,373.75
Landowner's share, ¼-----	2,093.64
	6,280.11
\$15 expense for seeding and harvesting-----	2,077.50

Loss for 1951-----

4,202.61

1952 (40 acres seeded) would have seeded:

100 wheat, 20 bushels, at \$2.50-----	\$5,000.00
58½ flax, 18 bushels, at \$4-----	4,212.00
	9,212.00
Landowner's share, ¼-----	2,303.00
	6,909.00
\$15 expense for seeding and harvesting-----	2,377.50

Loss for 1952-----

4,531.50
200.00

1953 (all seeded): Weed infestation from water-----

1954 (all seeded, complete flood, June):

40 durum, 7 bushels, at \$3-----	\$840.00
158½ barley, 50 bushels, at \$1.10-----	8,717.50
	9,557.50
Landowner's share, one-quarter-----	2,389.37
	7,168.13
Expense for crop harvest-----	794.00

Loss for 1954-----

6,374.13

30 acres of sweet clover seeded, \$15 an acre, expense of seed-----

450.00

(6,824.13)

Total-----

34,003.08

*Lots 12, 13, and 14 of sec. 2, T. 156 N., R. 66 W., in Ramsey County, N. Dak.,
89.05 acres*

1953: Seeded and harvested.

1954 (was seeded):

Hard wheat (Lee), 40 acres, 10 bushels, at \$2.20--- \$880. 00

Barley, 49 acres, 50 bushels, at \$1.10----- 2, 695. 00

3, 575. 00

Expense for crop harvest 89 acres, at \$4----- 356. 00

Loss for 1954----- \$3, 219. 00

Lots 16 and 18, sec. 3, T. 156 N., R. 66 W., Ramsey County, N. Dak., 34.55 acres

1948 would have seeded:

12 acres flax, 18 bushels, at \$6----- \$1, 296. 00

Expense for harvesting and seeding, \$15----- 180. 00

Loss for 1948----- \$1, 116. 00

1949, would have seeded:

34½ acres wheat, 20 bushels, at \$2.50----- \$1, 725. 00

Expense for seeding and harvesting, \$15----- 517. 50

Loss for 1949----- 1, 207. 50

1950, would have seeded:

34½ acres barley, 50 bushels, at \$1.25----- \$2, 156. 25

Expense for seeding and harvesting----- 517. 50

Loss for 1950----- 1, 638. 75

1951: Would have been summerfallowed.

1952 (9 acres of flax seeded), would have seeded:

25½ acres flax, 18 bushels, at \$4----- \$1, 836. 00

Expense for seeding and harvesting, \$15----- 382. 50

Loss for 1952----- 1, 454. 50

1953: All seeded.

1954, was seeded:

34½ acres barley, 50 bushels at \$1.10----- \$1, 897. 50

Expense for crop, harvest----- 138. 00

Loss for 1954----- 1, 759. 50

Total----- 7, 176. 25

E½E½ sec. 9, T. 156 N., R. 66 W., Ramsey County, N. Dak., 157.20 acres

1949 (127.20 acres seeded and harvested) would have seeded:

30 acres flax, 18 bushels, at \$3.75----- \$2, 025. 00

Expense for seeding and harvesting, \$15 per acre-- 450. 00

Loss for 1949----- \$1, 575. 00

1950 (127.20 acres seeded and harvested) would have seeded:

30 acres wheat, 30 bushel, at \$2.40----- \$2, 160. 00

Expense for seeding and harvesting, \$15 per acre-- 450. 00

Loss for 1950----- 1, 710. 00

1951 (127.20 acres seeded and harvested) would have seeded:

30 acres barley, 50 bushels, at \$1.35----- \$2, 025. 00

Expense for seeding and harvesting, \$15 per acre-- 450. 00

Loss for 1951----- 1, 575. 00

1952: 127.20 acres, all seeded and harvested.

1953: Summer fallowed.

1954, 127.20 acres seeded and harvested:

30 acres barley seeded, 50 bushels, at \$1.10----- \$1, 650. 00

Expense for crop harvested, 30 acres, at \$4----- 120. 00

Loss for 1954----- 1, 530. 00

Total----- 6, 390. 00

*Lots 11, 13, 14, and 15 sec. 3, T. 156 N., R. 66 W., Ramsey County, N. Dak.,
109 acres*

1948 (all flooded) would have seeded:		
40 acres summer-fallowed.		
40 acres flax, 18 bushels, at \$6	\$4,320.00	
29 acres barley, 50 bushels, at \$1.45	2,102.50	
Total	6,422.50	
Landowner's share, one-quarter	1,605.62	
Total	4,816.88	
\$15 expense for seeding and harvesting	1,035.00	
Loss for 1948		\$3,781.88
1949 (all flooded) would have seeded:		
29 acres summer-fallowed.		
80 acres wheat, 20 bushels, at \$2.50	\$4,000.00	
Landowner's share, one-quarter	1,000.00	
Total	3,000.00	
\$15 expense for seeding and harvesting	1,200.00	
Loss for 1949		1,800.00
1950 (18 acres seeded; 91 flooded) would have seeded:		
29 acres wheat, 30 bushels, at \$2.40	\$2,088.00	
62 acres barley, 50 bushels, at \$1.25	3,875.00	
	5,962.00	
Landowner's share, one-fourth	1,490.75	
Total	4,472.25	
Expense for harvesting and seeding, \$15	1,365.00	
Loss for 1950		3,107.25
1951 29 acres summer-fallowed; 80 flooded:		
60 acres flax, 15 bushels, at \$4.50	\$4,050.00	
20 acres barley, 50 bushels, at \$1.35	1,350.00	
	5,400.00	
Landowner's share, one-fourth	1,350.00	
Total	4,050.00	
Expense for seeding and harvesting, \$15	1,200.00	
Loss for 1951		2,850.00
1952 (59 acres seeded; 40 acres flooded) would have seeded:		
40 acres flax, 18 bushels, at \$4	\$2,880.00	
Landowner's share, one-fourth	720.00	
Total	2,160.00	
Expenses for seeding and harvesting, \$15	600.00	
Loss for 1952		1,560.00
1953 (20 acres flooded; bought land) would have seeded:		
20 acres flax, 15 bushels, at \$3.65	\$1,095.00	
\$15 expenses for seeding and harvesting	300.00	
Loss for 1953		795.00
1954 (harvested barley, 15; flax 10) seeded, but flooded in June:		
8 acres barley, 50 bushels, at \$1.10	\$440.00	
76 acres flax, 18 bushels, at \$3.10	4,240.80	
Total	4,680.80	
\$4 expense for harvest	436.00	
Loss for 1954		4,244.80
Total		18,138.93

N $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 1, T. 156 N. R. 66 W. Ramsey County, N. Dak., 117.35 acres

1948 would have seeded:

27 summerfallow.	
60 flax, 18 bushels, at \$6.00-----	\$6, 480. 00
30 barley, 50 bushels at \$1.45-----	2, 195. 00

8, 675. 00

Landowner's share, $\frac{1}{4}$ -----

2, 168. 75

Total-----

6, 506. 25

\$15 expense for seeding and harvesting, per acre-----

1, 350. 00

Loss for 1948-----

\$5, 156. 25

1949 would have seeded:

37 acres summerfallow.	
20 acres flax, 18 bushels, at \$3.75-----	\$1, 350. 00
60 acres wheat, 20 bushels, at \$2.50-----	3, 000. 00

4, 350. 00

Total-----

1, 087. 50

Landowner's share, $\frac{1}{4}$ -----

3, 262. 50

Total-----

1, 200. 00

\$15 per acre expense for seeding and harvesting-----

2, 062. 50

Loss for 1949-----

1950, would have seeded:

17 acres summerfallow.	
40 acres wheat, 30 bushels, at \$2.40-----	\$2, 880. 00
60 acres barley, 50 bushels at \$1.25-----	3, 750. 00

6, 630. 00

Total-----

1, 657. 50

Landowner's share, $\frac{1}{4}$ -----

4, 972. 50

Total-----

1, 500. 00

\$15 expense for seeding and harvesting-----

3, 472. 50

Loss for 1950-----

1951 (37 acres seeded and harvested):

60 acres barley, 50 bushels, at \$1.35-----	\$4, 050. 00
20 acres flax, 15 bushels, at \$4.50-----	1, 350. 00

5, 400. 00

Landowner's share, $\frac{1}{4}$ -----

1, 350. 00

Total-----

4, 050. 00

\$15 expense for seeding and harvesting-----

1, 200. 00

2, 850. 00

Loss for 1951-----

1952 (40 acres flooded) would have seeded:

40 acres flax, 18 bushels, at \$4-----	\$2, 880. 00
Landowner's share, $\frac{1}{4}$ -----	720. 00

2, 160. 00

Total-----

600. 00

\$15 expense for seeding and harvesting-----

1, 560. 00

Loss for 1952-----

1953: Seeded and harvested.

1954 (complete flood in June) would have seeded:

Barley, 100 acres, 50 bushels, at \$1.10-----	\$5, 500. 00
Summerfallow 17.35 acres.	
Landowner's share, $\frac{1}{4}$ -----	1, 375. 00

3, 125. 00

Total-----

400. 00

\$15 expense for harvesting-----

2, 725. 00

Loss in 1954-----

18, 433. 75

Total-----

Sec. 10-156-66, in T. 156 N., R. 66 W., in Ramsey County, N. Dak., deeded land in sec. 10-156-66, 72.50 acres

1948 (30 acres seeded; 42.40 flooded) would have seeded:

42 flax, 18 bushels, at \$6----- \$4, 536
Landowner's share, 1/4----- 1, 184

Total----- 3, 352
\$15 expense for seeding and harvesting----- 630

Loss for 1948----- \$2, 822. 00

1949 (20 acres seeded; 52.40 flooded) would have seeded:

52 acres wheat, 20 bushels, at \$2.50----- \$2, 600
Landowner's share, 1/4----- 650

Total----- 1, 950
\$15 expense for seeding and harvesting----- 780

Loss for 1949----- 1, 170. 00

1950 (complete flood):

32.40 summer-fallowed; 40 acres barley, 50 bushels, at
\$1.25----- \$2, 500
Landowner's share, 1/4----- 625

Total----- 1, 875
\$15 expense for seeding and harvesting----- 600

Loss for 1950----- 1, 275. 00

1951 (12 acres flooded):

12 flax 15 bushels, at \$4.50----- \$810. 00
Landowner's share, one-fourth----- 202. 50

Total----- 607. 50
\$15 expense for seeding and harvesting----- 180. 00

Loss for 1951----- 427. 50

1952: All cropped.

1953: All in crop.

1954: Farmed by Robert Elsperger.

Total----- 5, 694. 50

SW 1/4 of sec. 31-157-65, Towner County, N. Dak., 160 acres

1948, would have seeded:

80 acres flax, 18 bushels, at \$6----- \$8, 640. 00
80 acres barley, 50 bushels, at \$1.45----- 5, 800. 00

Total----- 14, 440. 00
Landowner's share, one-fourth----- 3, 610. 00

10, 830. 00
\$15 expense for seeding and harvesting----- 2, 400. 00

Loss for 1948----- \$8, 430. 00

1949, would have seeded:

40 acres summer-fallowed.
80 acres wheat, 20 bushels, at \$2.50----- \$4, 000. 00
40 acres barley, 40 bushels, at \$1.25----- 2, 000. 00

Total----- 6, 000. 00
Landowner's share, one-fourth----- 1, 500. 00

Total----- 4, 500. 00
\$15 expense for seeding and harvesting----- 1, 800. 00

Loss for 1949----- 2, 700. 00

SW $\frac{1}{4}$ of sec. 31-157-65, Towner County, N. Dak., 160 acres—Continued

1950 (140 acres flooded) would have seeded:	
20 acres summer-fallowed.	
40 acres wheat, 30 bushels, at \$2.40.....	\$2, 880. 00
80 acres barley, 50 bushels, at \$1.25.....	5, 000. 00
Total.....	7, 880. 00
Landowner's share, one-quarter.....	1, 970. 00
Total.....	5, 910. 00
\$15 expense for seeding and harvesting.....	1, 800. 00
Loss for 1950.....	\$4, 110. 00
1951 (80 acres flooded) would have seeded:	
80 acres flax, 15 bushels, at \$4.....	
Landowner's share, one-quarter.....	\$4, 800. 00
Landowner's share, one-quarter.....	1, 200. 00
Total.....	3, 600. 00
\$15 expense for seeding and harvesting.....	1, 200. 00
Loss for 1951.....	2, 400. 00
1952 (40 acres flooded) would have seeded:	
40 acres barley, 50 bushels, at \$1.35.....	
Landowner's share, one-quarter.....	\$2, 700. 00
Landowner's share, one-quarter.....	675. 00
Total.....	2, 025. 00
\$15 expense for seeding and harvesting.....	800. 00
Loss for 1952.....	1, 225. 00
1953: All harvested.	
1954:	
100 acres flax, 18 bushels, at \$3.10.....	
Landlord's share, one-quarter.....	\$5, 580. 00
Landlord's share, one-quarter.....	1, 395. 00
Total.....	4, 185. 00
\$15 expense for seeding and harvesting.....	1, 500. 00
Loss for 1954.....	2, 685. 00
Total.....	21, 550. 00

In the Matter of the Claim of Maude Wright Webster, Who is Now Sole Owner of the Land in Which Her Late Husband, Milton Webster Had an Interest Against the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the Honorable Congress of the United States as follows, to wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile, and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery, and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the Coulee from the south outlet of Rock Lake, through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term "a dam," along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rock fills and dams in the coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake, and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by these barriers, rock fills, and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years -----, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of ----- dollars.

VI

That at the present time a considerable portion of petitioner's land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the water commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

WHEREFORE, your petitioner(s) respectfully petitions (petition) the Honorable Congress of the United States that an appropriate bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 16th day of February 1955.

MAUDE WRIGHT WEBSTER, *Petitioner.*

Claim of Maude Wright Webster, individually, and as executrix of the last will and testament of Milton Webster, deceased

RECAPITULATION

South half of section 34, in township 156 north of range 66 west, in Ramsey County, N. Dak.....	\$36, 162. 50
Southeast quarter of northeast quarter and lot 1 of section 3, in township 155, north of range 66 west, in Ramsey County, N. D.....	1, 600. 00
South half of the northwest quarter and lots 3 and 4 and the southwest quarter of section 2-155-66, Ramsey County, N. Dak.....	2, 440. 00
Total.....	40, 202. 50

Claim of Maude Wright Webster, individually, and as executrix of the last will and testament of Milton Webster, deceased

1948—S½ of sec. 34-156-66, Ramsey County, N. Dak.
(farmed as tenant, and received ½ of the crop) 100 acres
flooded:

100 acres flax seeded, 15 bushels to the acre, at \$6.....	\$9, 000. 00
Expense per acre, \$15.....	1, 500. 00

Gross loss..... 7, 500. 00

Loss for 1948, tenant's share..... \$3, 750. 00

1949—S½ of sec. 34-156-66, Ramsey County, N. Dak.
(farmed as tenant, and received ½ of the crop):

Flooded 200 acres of barley seeded:

50 bushels per acre, at \$1.25.....	\$12, 500. 00
Expense.....	3, 000. 00

Gross loss..... 9, 500. 00

Tenant's share of loss..... 4, 750. 00

Flooded 70 acres of flax:

18 bushels per acre, at \$3.75.....	\$4, 725. 00
Expense.....	1, 050. 00

Gross loss..... 3, 675. 00

Tenant's share of loss..... 1, 837. 50

Claim of Maude Wright Webster, individually, and as executrix of the last will and testament of Milton Webster, deceased—Continued

1949—Continued

SE $\frac{1}{4}$ NE $\frac{1}{4}$ and lot 1 of sec. 3 (owned by claimant)

155-66, Ramsey County, N. Dak.:

Flooded 45 acres of hard wheat:

20 bushels per acre, at \$2.50----- \$2, 250. 00

Expense----- 675. 00

Claimant's loss----- \$1, 575. 00

Flooded 80 acres of barley:

50 bushels per acre, at \$1.25 (4,000 bushels) - \$5, 000. 00

Expense----- 1, 200. 00

Claimant's loss----- 3, 800. 00

1950—S $\frac{1}{2}$ of sec. 34-156-66 Ramsey County, N. Dak.

(farmed as tenant, and received $\frac{1}{2}$ of crop):

100 acres of hard wheat flooded:

30 bushels per acre, at \$2.40----- \$7, 200. 00

Expense----- 1, 500. 00

Gross loss----- 5, 700. 00

Tenant's share of loss----- 2, 850. 00

100 acres of flax flooded:

15 bushels per acre, at \$3.75----- \$5, 625. 00

Expense----- 1, 500. 00

Gross loss----- 4, 125. 00

Claimant's loss as tenant----- 2, 062. 50

70 acres of barley flooded:

50 bushels per acre, at \$1.25----- \$4, 375. 00

Expense----- 1, 050. 00

Gross loss----- 3, 325. 00

Tenant's share of loss----- 1, 662. 50

SE $\frac{1}{4}$ NE $\frac{1}{4}$ and lot 1 of sec 3 (owned by claimant)

155-66, Ramsey County, N. Dak.:

Flooded, 45 acres of barley:

50 bushels per acre, at \$1.25----- \$2, 812. 50

Expense----- 675. 00

Claimant's loss----- 2, 137. 50

Flooded, 80 acres of barley:

50 bushels per acre, at \$1.25----- \$5, 000. 00

Expense----- 1, 200. 00

Claimant's loss----- 3, 800. 00

1951—S $\frac{1}{2}$ of sec 34-156-66, Ramsey County, N. Dak.,

(farmed as tenant, and received $\frac{1}{2}$ of crop):

Flooded 100 acres of barley:

50 bushels per acre, at \$1.35----- \$6, 750. 00

Expense----- 1, 500. 00

Gross loss----- 5, 250. 00

Claimant's loss----- 2, 625. 00

SE $\frac{1}{4}$ NE $\frac{1}{4}$ and lot 1 of sec 3 (owned by claimant):

None flooded.

1954—Flooded S $\frac{1}{2}$ of sec 34-156-66. Ramsey County,

N. Dak., (farmed as tenant, and received $\frac{1}{2}$ of crop):

250 acres of barley at 50 bushels per acre at \$1.15--- \$14, 375. 00

Expense----- 3, 750. 00

Gross loss----- 10, 625. 00

Claimant's loss----- 5, 312. 50

Claim of Maude Wright Webster, individually, and as executrix of the last will and testament of Millon Webster, deceased—Continued

1954—Continued

T. 155, N. R. 66, Ramsey County, N. Dak.:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ and lot 1 of sec. 3 (owned by claimant):

Flooded 40 acres of hard wheat at 20 bushels	
per acre, at \$2.20-----	\$1, 760. 00
Expense-----	160. 00

Claimant's loss-----	\$1, 600. 00
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S $\frac{1}{2}$ NW $\frac{1}{4}$ and lots 3 and 4 and the SW $\frac{1}{4}$ of sec.

2-155-66, Ramsey County, N. Dak. (owned

by claimant):

Flooded 80 acres of barley at 30 bushels	
per acre, at \$1.15-----	\$2, 760. 00
Expense-----	320. 00

Claimant's loss-----	\$2, 440. 00
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In the Matter of the Claim of Ewald Henke, of Churchs Ferry, N. Dak. v. the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the Honorable Congress of the United States as follows, to-wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile, and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery, and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway

or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rock fills and dams in the coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Churchs Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by those barriers, rock fills and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years -----, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of ----- dollars.

VI

That at the present time a considerable portion of petitioner's land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the Water Commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

WHEREFORE, your petitioner(s) respectfully petitions (petition) the honorable Congress of the United States that an appropriate bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 15th day of February 1955.

EWALD HENKE, *Petitioner.*

Claim of Ewald Henke, Churchs Ferry, N. Dak.

RECAPITULATION

NW¼ sec. 35, T. 156 N., R. 66, Ramsey County, N. Dak.....	\$7, 870
SW¼ sec. 35, T. 156 N., R. 66 W., Ramsey County, N. Dak.....	2, 125
Total.....	9, 995
<i>NW¼ sec. 35, T. 156 N., R. 66, Ramsey County, N. Dak.</i>	
1948 (50 acres flooded):	
Would have been seeded to barley, at \$1.50.....	\$2, 250. 00
Expense \$15 per acre.....	750. 00
Net loss for 1948.....	\$1, 500. 00
1949 (50 acres flooded):	
Would have been seeded to wheat, at \$2.30.....	\$3, 450. 00
Expense \$15 per acre.....	750. 00
Loss for 1949.....	2, 700. 00
1950 (40 acres flooded):	
Would have been planted to barley, at \$1.30.....	\$1, 560. 00
Expense \$15 per acre.....	600. 00
Loss for 1950.....	960. 00
1951 (40 acres flooded):	
Would have been planted to flax, at \$4 per bushel....	\$1, 920. 00
Expense, \$15 per acre.....	600. 00
Loss for 1951.....	1, 320. 00
1952: None.	
1953: None.	
1954 (seeded and then flooded):	
30 acres of barley seeded, at \$1.15.....	\$690. 00
30 acres of wheat seeded, at \$2.....	1, 800. 00
Total.....	2, 490. 00
Expense per acre, \$15.....	900. 00
Loss for 1954.....	1, 390. 00
<i>SW¼ sec. 35, T. 156 N. R. 66 W., Ramsey County, N. Dak.</i>	
1954 (seeded and then flooded):	
50 acres seeded to barley, at \$1.15.....	\$2, 875. 00
Expense, \$14 per acre.....	750. 00
Loss for 1954.....	2, 125. 00

In the Matter of the Claim of Harry L. Overland and Bella Overland, as Joint Tenants with Right of Survivorship of Churchs Ferry, N. Dak., against the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the Honorable Congress of the United States as follows, to wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile, and productive and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 quantities of water, followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a "dam," along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rockfills and dams in the Coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States, urged and promoted farmers to dig drainage ditches so to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That, in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Churchs Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake, and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by these barriers, rock fills, and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very

happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years _____, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of _____ dollars.

VI

That at the present time a considerable portion of petitioners' land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the water commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

VIII

Petitioners have been owners-operators during all of these years.

WHEREFORE your petitioner(s) respectfully petitions (petition) the honorable Congress of the United States that an appropriate bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 15th day of February 1955.

HARRY L. OVERLAND,
Petitioner.
BELLA OVERLAND.
Petitioner.

Claim of Harry L. Overland and Bella Overland, as joint tenants with right of survivorship, owners, and operators of the following described land, to wit:

RECAPITULATION

N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and lots 1, 2, 3, and 4 of sec. 28; SE $\frac{1}{4}$ sec. 33; SW $\frac{1}{4}$ sec. 33; E $\frac{1}{2}$ NW $\frac{1}{4}$ and lots 1 and 2 of sec. 33, T. 156 N., R. 66 W., Ramsey County, N. Dak., \$105,500.

Claim of Harry L. Overland and Bella Overland, as joint tenants with right of survivorship, owners and operators of the following described land, to wit:

N $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and lots 1, 2, 3, and 4 of sec. 28; SE $\frac{1}{4}$, sec. 33; SW $\frac{1}{4}$ sec. 33; E $\frac{1}{2}$ NW $\frac{1}{4}$ and lots 1 and 2 of sec. 33, T. 156 N. R. 66 W., Ramsey County, N. Dak.

Claimants seed mostly barley on this land and their claims will be on the basis that barley would have been seeded in each of the years for which claims are made. Claimants in some years have raised over 60 bushels per acre of barley, and the barley crop ran over 60 bushels per acre in 1953 on this land, so it is estimated that a reasonable return would have been 45 bushels per acre.

1948 (400 acres flooded):

Loss 18,000 bushels, at \$1.25-----	\$22, 500
Less \$15 per acre expense-----	6, 000

Net loss for 1948----- \$16, 500

1949 (400 acres flooded; half of this land was plowed and ready for seeding):

Loss 18,000 bushels, at \$1.25-----	\$22, 500
Less \$15 per acre expense-----	6, 000

Net loss for 1949----- 16, 500

1950 (400 acres flooded):

Loss, 18,000 bushels, at \$1.25-----	\$22, 500
Less \$10 per acre expense-----	4, 000

Net loss for 1950----- 18, 500

All of this land was plowed and ready for seeding.

1951 (400 acres flooded):

Loss, 18,000 bushels, at \$1.25-----	\$22, 500
Less \$15 per acre expense-----	6, 000

Net loss for 1951----- 16, 500

1952 (400 acres flooded):

Loss, 18,000 bushels, at \$1.25-----	\$22, 500
Less \$15 per acre expense-----	6, 000

Net loss for 1952----- 16, 500

1954:

500 acres was all seeded, sprayed, and fertilized, and was just about starting to head out when the flood came, and on an average of 45 bushels per acre, the loss would be	\$22, 500
Less harvest expense of-----	1, 500

Net loss for 1954----- 21, 000

In the Matter of the Claim of John Magnuson, of Churchs Ferry, N. Dak., Against the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the honorable Congress of the United States as follows, to wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available

for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to-wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rock fills and dams in the coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife Service by these barriers, rock fills and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the

years 1945, 1946, and 1947, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of \$8,700.

VI

That at the present time a considerable portion of petitioner's land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the Water Commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

VIII

That petitioner farmed the land involved herein as owner-operator, during the years 1945, 1946, and 1947 and his losses for such years are shown in paragraph V herein.

WHEREFORE, your petitioner(s) respectfully petitions (petition) the Honorable Congress of the United States that an appropriate bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 14th day of February 1955.

JOHN MAGNUSON, *Petitioner.*

Claim of John Magnuson, Churchs Ferry, N. Dak.

RECAPITULATION

Years 1948 through 1954:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ and lots 1 through 8, both inclusive, of sec. 21, T. 156 N., R. 66 W., Ramsey County, N. Dak.	\$25, 100. 00
NW $\frac{1}{4}$ NE $\frac{1}{4}$ and lots 1, and 2, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and lot 5, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ and lots 3 and 4, of sec. 16, T. 156 N., R. 66 W., Ramsey County, N. Dak.	25, 402. 50
Total	50, 502. 50
Claim for damages for the years 1945, 1946, and 1947	8, 700. 00
Total	59, 202. 50

SW $\frac{1}{4}$ SE $\frac{1}{4}$ and lots 1 through 8, both inclusive, of sec. 21 in T. 156 N., R. 66 W., Ramsey County, N. Dak. 311.55 acres

1948 (125 acres under water in lots 1, 2, 3, and 4) would have had the following crop and summer-fallowing:

40 acres summer fallow.	
45 acres flax, 18 bushels per acre, at \$6	\$4, 800
40 acres barley, 50 bushels per acre, at \$1.45	2, 900
	7, 700
Less \$15 per acre expense for seeding and harvesting	1, 275

Loss for 1948

\$6, 425

1949 (95 acres under water in lots 1, 2, and 4) would have had the following crop and summer-fallowing:

40 acres summer fallow.	
55 acres wheat, at 20 bushels per acre, at \$2.50	\$2, 750
\$15 per acre expense for seeding and harvesting	725

Loss for 1949

2, 025

*SW $\frac{1}{4}$ SE $\frac{1}{4}$ and lots 1 through 8, both inclusive, of sec. 21 in T. 156 N., R. 66 W.,
Ramsay County, N. Dak., 311.55 acres—Continued*

1950 (240 acres under water in lots 1, 2, 3, 4, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and and lots 5, 6, 7, and 8) would have had the following crop and summer-fallowing:		
60 acres summer-fallow.		
100 acres of wheat, 25 bushels per acre, at \$2.40-----	\$6, 000	
80 acres of flax, 15 bushels per acre, at \$5-----	6, 000	
Total-----	12, 000	
Less \$15 per acre seeding and harvesting expense-----	2, 700	
Loss for 1950-----		\$9, 300
1951 (120 acres under water in lots 1, 2, 3, and 4) would have had the following in summer-fallowing and seeded:		
40 acres summer-fallow.		
80 acres of barley, 50 bushels per acre, at \$1.35-----	\$5, 400	
Less expense of \$15 per acre seeding and harvesting-----	1, 200	
Loss for 1951-----		4, 200
1952 (60 acres under water in lots 1 and 4) would have had the following seeded or summer-fallowed:		
30 acres summer-fallow.		
30 acres of wheat, 20 bushels per acre, at \$2.50-----	\$1, 500	
\$15 per acre expense for seeding and harvesting-----	450	
Loss for 1952-----		1, 050
1953: All seeded, none under water.		
1954 (240 acres seeded in sec 21; entirely flooded) would have had the following seeded and summer-fallowed:		
40 acres summer-fallowed.		
100 acres durum wheat, 2 bushels per acre, at \$3.50--	\$700. 00	
100 acres barley, 40 bushels per acre, at \$1.10-----	4, 400. 00	
Total-----	5, 100. 00	
\$15 per acre expense of seeding and harvesting-----	3, 000. 00	
Loss for 1954-----		2, 100. 00
<i>NW$\frac{1}{4}$NE$\frac{1}{4}$ and lots 1 and 2, N$\frac{1}{2}$SW$\frac{1}{4}$SE$\frac{1}{4}$SW$\frac{1}{4}$ and lot 5, E$\frac{1}{2}$NW$\frac{1}{4}$SW$\frac{1}{4}$SE$\frac{1}{4}$ and lots 3 and 4, sec 16, T. 156 N., R. 66 W., Ramsey County, N. Dak.</i>		
1948 (85 acres in NW $\frac{1}{2}$ NE $\frac{1}{2}$ and lots 1, 2, 3, 4 and 5 under water), would have had:		
20 acres summer-fallow.		
65 acres wheat, 20 bushels per acre, at \$2.50-----	\$3, 250. 00	
Less \$15 per acre expense-----	975. 00	
Loss for 1948-----		\$2, 285. 00
1949 (60 acres under water in Lots 1, 2, 3, 4, 5) would have had:		
60 acres flax, 15 bushels per acre, at \$6-----	\$5, 400. 00	
Less \$15 per acre expense-----	900. 00	
Loss for 1949-----		\$4, 500. 00
1950 (150 acres under water) would have had:		
40 acres summer-fallow.		
50 acres barley, 40 bushels per acre, at \$1.25-----	\$2, 500. 00	
60 acres wheat, 25 bushels per acre, at \$2.40-----	3, 600. 00	
Total-----	6, 100. 00	
Less \$15 per acre expense-----	900. 00	
Loss for 1950-----		5, 200. 00

NW $\frac{1}{4}$ NE $\frac{1}{4}$ and lots 1 and 2, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ and lot 5, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ and lots 3 and 4, sec. 16, T. 156 N., R. 66 W., Ramsey County, N. Dak.—Con.

1951 (50 acres under water) would have had:

25 acres summer-fallow.	
25 acres flax, 15 bushels per acre, at \$4.50	\$1, 687. 50
Less \$15 per acre expense	375. 00

Loss for 1951	\$1, 312. 50
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1952: None under water.

1953: None under water.

1954 (150 acres that were seeded were flooded):

70 acres barley, 35 bushels, at \$1.10	\$2, 695. 00
60 acres durum, 2 bushels, at \$3.50	420. 00
20 acres flax, 20 bushels, at \$3.10	1, 240. 00

Total	4, 355. 00
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\$15 per acre expense	2, 250. 00
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Loss for 1954	2, 105. 00
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In the Matter of the Claim of Roy G. Sylvester, Churchs Ferry, N. Dak., and Walter E. Sylvester, 915 Avenue C West, Bismarck, N. Dak., Against the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-mentioned claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the honorable Congress of the United States as follows, to wit:

I

(That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no

culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rock fills and dams in the coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so to drain their slough and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by these barriers, rock fills and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years _____, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of _____ dollars.

VI

That at the present time a considerable portion of petitioner's land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the water commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

WHEREFORE your petitioner(s) respectfully petitions (petition) the Honorable Congress of the United States that an appropriate bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 28th day of February 1955.

ROY G. SYLVESTER,
Petitioner.
WALTER E. SYLVESTER,
Petitioner.

Claim of Roy G. Sylvester and Walter E. Sylvester

1948— $S\frac{1}{2}$ of sec. 34-156-66, Ramsey County, N. Dak. (this land is owned by claimants and farmed on a 50-50 basis). 100 acres flooded:		
100 acres flax seeded:		
15 bushels to the acre, at \$6.....	\$9,000.00	
Expense per acre, \$15.....	1,500.00	
Gross loss.....	7,500.00	
Landlord's share of loss.....		\$3,750.00
1949— $S\frac{1}{2}$ of sec. 34-156-66, Ramsey County, N. Dak. (this land is owned by claimants and farmed on a 50-50 basis):		
Flooded 200 acres of barley seeded:		
50 bushels per acre, at \$1.25.....	\$12,500.00	
Expense.....	3,000.00	
Gross loss.....	9,500.00	
Landlords' share of loss.....		4,750.00
1950— $S\frac{1}{2}$ of sec. 34-156-66, Ramsey County, N. Dak. (this land is owned by claimants and farmed on a 50-50 basis):		
100 acres of hard wheat flooded:		
30 bushels per acre, at \$2.40.....	\$7,200.00	
Expense.....	1,500.00	
Gross loss.....	5,700.00	
Landlords' share of loss.....		2,850.00
100 acres of flax flooded:		
15 bushels per acre, at \$3.75.....	\$5,625.00	
Expense.....	1,500.00	
Gross loss.....	4,125.00	
Landlords' share of loss.....		2,062.50
70 acres of barley flooded:		
50 bushels per acre, at \$1.25.....	\$4,375.00	
Expense.....	1,050.00	
Gross loss.....	3,325.00	
Landlords' share of loss.....		1,662.50
1951.— $S\frac{1}{2}$ of sec. 34-156-66, Ramsey County, N. Dak. (this land is owned by claimants and farmed on a 50-50 basis):		
Flooded 100 acres of barley:		
50 bushels per acre, at \$1.35.....	\$6,750.00	
Expense.....	1,500.00	
Gross loss.....	5,250.00	
Landlords' share of loss.....		2,625.00
1954.— $S\frac{1}{2}$ of sec. 34-156-66, Ramsey County, N. Dak. (this land is owned by claimants and farmed on a 50-50 basis):		
250 acres of barley at 50 bushels per acre, at \$1.15.....		
Expense.....	\$14,375.00	
	3,750.00	
Gross loss.....	10,625.00	
Landlords' share of loss.....		5,312.50

ROY G. SYLVESTER.
WALTER E. SYLVESTER.

In the Matter of the Claims of Albert Moen and Evelyn Moen Against
the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY CONGRESS

The petitioners, Albert Moen and Evelyn Moen, show to the Honorable Congress of the United States of America as follows:

1. That the petitioners are the owners of lots 1, 2, and 3 and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ all in sec. 14, and the SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SE $\frac{1}{4}$ all in sec. 13, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of sec. 23, and the N $\frac{1}{2}$ N $\frac{1}{2}$ of sec. 24, all of which land is in T. 156 R. 66, W., of the fifth principal meridian in Chain Lakes Township, County of Ramsey, State of North Dakota; that all of the foregoing land is rich and fertile and very productive save and except when the same is flooded.

2. That the petitioners for several years last past have been farming said lands and have farmed said lands from and including the year 1948 to the present time; that the petitioners made large investments in farm machinery, equipment and tools and in a potato warehouse and other facilities for the purpose of farming said lands.

3. That said lands are contiguous to and in the vicinity of a certain lake located in Chain Lakes Township, Ramsey County, known as Lac Aux Morts which is also known as Lake Alice, the said lands being on the east side of said lake.

4. That flowing into said lake from the north is a certain coulee named Mauvais Coulee; that the said Mauvais Coulee has a large number of tributaries or drainage coulees, creeks, or streams running into the same, covering the drainage from a large area to the north of said Lake Alice, all of which drainage converges at the inlet at the north end of Lake Alice and in its natural drainage course would flow into Lake Alice and through Lake Alice, then from the outlet of Lake Alice located on the southwest shore of said Lake Alice into Lake Irvine, and then out of Lake Irvine into Mauvais Coulee and continue in said Mauvais Coulee until the same reached Devils Lake; that said drainage area to the north of Lake Alice is pictured on the map, exhibit A, which is hereby made a part hereof as though incorporated herein in full, which exhibit A is submitted in support of all of the claims arising out of the flooding of land in the said vicinity of Lake Alice.

5. That to the north of said Lake Alice near a large lake known as Rock Lake there is a drainage divide to the south of said Rock Lake, and at said divide the natural drainage of the area to the north of said divide is to the north through the various branches of Rock Lake into a certain coulee flowing north into Canada.

6. That a number of years ago prior to 1948 the Fish and Wildlife Service of the United States Department of the Interior constructed a dam across the northeast outlet of said Rock Lake and also caused to be constructed a dike or dam across the northwest outlet of said Rock Lake; that said dams and dikes caused the water in said Rock Lake to rise a number of feet; and in addition thereto the said Fish and Wildlife Service caused to be dug out a canal or drainage ditch through the drainage divide south of said Rock Lake; that said dams and said ditching through the divide caused great amounts of water to flow south into the drainage system to the north of said Lake Alice flowing into the said inlet into the drainage system to the north of said Lake Alice flowing into said Lake Alice which if it had not been for said construction of said dams and the ditching through said divide would have in its natural course of drainage flowed to the north into Canada; that hereby made a part hereof is exhibit B, a map of said drainage area in and around the said Rock Lake showing the location of said dams.

That a great number of farmers in the drainage area north of said Lake Alice under the supervision and encouragement of the Soil Conservation Service of the United States Department of Agriculture have constructed drainage ditches flowing into said drainage system, draining their sloughs, potholes, and other lowlands into said drainage system, thereby greatly increasing the flow of water into said drainage system during the rainy or wet seasons of the year.

8. That the said Fish and Wildlife Service of the United States Department of the Interior constructed or caused to be constructed and have under their control a certain road known as the Wildlife Road which runs around the north end of said Lake Alice and across the inlets of said Lake Alice located at the north end of said lake; that the said Fish and Wildlife Service failed and neglected to put proper drainage culverts through said road so that the water flowing from the north might enter said Lake Alice; that as a consequence of said construction of said road without proper drainage culverts running therethrough, great amounts

of water have built up on the north side of said road and have flowed or been deflected around the east side of said lake and have caused the water to back up for great distances to the north of said Lake Alice, causing vast amounts of land to flood; that attached hereto and marked "Exhibit C" is a picture of said road which demonstrates how said water is held or dammed by said road.

That said Fish and Wildlife Service of the United States Department of the Interior has constructed a dam or spillway or barrier across the outlet of said Lake Alice as shown on exhibit A attached hereto, and for a great distance from said outlet to the south has filled in said channel carrying the water from said Lake Alice to the south, thereby causing the water in said Lake Alice to raise a number of feet in height and overflow the banks of said Lake Alice and flood great amounts of land in the vicinity of said Lake Alice during the rainy or wet seasons; that the said Fish and Wildlife Service of the United States Department of the Interior has constructed other barriers and dams on Mauvais Coulee to the south of said Lake Alice, namely Silver Lake Dam and dike, which greatly slows down the flow of water flowing from said Lake Alice during the rainy or wet season and causes the water to build up to the north of said dam and barrier.

10. That the lands adjacent to and surrounding said Lake Alice are level, and the drop in elevation per mile is very slight, and slight interference with the natural flow of water in said area during the wet or rainy season can and does cause great injury to and flooding of the lands in the community of the said Lake Alice.

11. That the previous owners of the land described in this petition signed an easement, without any consideration whatever therefor, to flood part of said lands, a copy of which is attached hereto and marked "Exhibit D" and made a part hereof as though incorporated herein in full; that it would be unconscionable, inequitable, and unjust for the agencies of the Government of the United States of America to contend that said easement above described gave them the right to flood the land or lands described and covered by said easement; that by reason of said construction of dams, dikes, barriers, spillways, drainage ditching as heretofore set out, on the part of the agencies of the Government of the United States of America the lands of the petitioners have been flooded and injured as hereinafter indicated.

12. That in the year 1948 the petitioners had planned to plant potatoes on the NW $\frac{1}{4}$ and the W $\frac{1}{4}$ SE $\frac{1}{4}$ of sec. 13, T. 156 N., of R. 66; that, however, 195 acres of said land, which had been processed the prior year and was in condition for potato planting and which had been fertilized the year before at the cost of \$4 per acre, was flooded out by reason of the construction of the dams, barriers, and drainage ditches heretofore set out; that the average yield of potatoes that year in that area on comparable land was at the minimum 180 hundredweight per acre, and the market price for potatoes that year was \$2.50 which would have brought into the petitioners had said land not been flooded a gross of \$450 per acre; that the expense per acre of harvesting and caring for said potatoes that year would have been approximately the sum of \$200 per acre, therefore, said petitioners were deprived of a profit on said 195 acres of \$250 per acre, or a total loss on said land during said year of \$48,750; that the petitioners were able to plant 26 acres on said 240 acres and about 14 acres of alfalfa.

That the petitioners in 1949 had planned to put this same land into potatoes again, as said land had been fertilized in 1947 for the 1948 crop and said fertilizer would have benefited the 1949 crop of potatoes; that 195 acres of said land was flooded out; that the average yield on comparable ground that year amounted to approximately 180 hundredweight per acre, and the average price was \$2 per hundredweight, making a loss suffered by the petitioners for 1949, to this particular piece of land, of \$31,200.

That in 1950 the petitioners had planned to plant 100 acres of this land to barley and 95 acres thereof to wheat, of the said 195 acres which was flooded in 1950; that the average yield of barley per acre on comparable ground in this area that year was 50 bushels per acre; that the average yield of wheat on comparable ground in this area that year was 30 bushels per acre; that the average price of barley that year came to \$1.25 per bushel; that the average price for wheat that year was \$2.40 per bushel; that the average expense of planting and harvesting barley and wheat that year came to approximately \$15 per acre, making a loss suffered by the petitioners in 1950 on this land because of flooding thereof the sum of \$10,165.

That in 1951 there were 25 more acres available for crop on said land, and only 170 acres were flooded; that the petitioners had planned to plant 70 acres of barley and 100 acres to wheat in said 170 acres of flooded land; that the average yield

on comparable land in this area for barley in said year was 50 bushels to the acre and the average yield of wheat was 20 bushels per acre; that the expense which the petitioners were not required to incur for planting and harvesting wheat and barley was \$15 per acre; that the average price per bushel for barley in said year was \$1.35 and that the average price per bushel for wheat in said year was \$2.40; that said petitioners incurred a total loss because of said flooding from said lake on said piece of land for said year of \$6,975.

That in 1952 there were 75 acres flooded of said land; that the petitioners had planned to plant 75 acres of said land which was flooded into flax; that the average yield for flax during that year was 18 bushels per acre in said area on comparable land; that the average expense per acre which the petitioners were not required to incur was \$15 per acre; that the average price for flax in said year of 1952 was \$4 per bushel; that the petitioners lost by reason of the flooding of said land in 1952 the sum of \$4,275.

That in 1953 none of said land was flooded out, but 75 acres of said land was infested with water sedge weed all of which was caused by flooding which resulted in an estimated damage of \$375 to the petitioners.

That in 1954 the petitioners had 85 acres of barley seeded on said land and 74 acres of durum seeded upon said land and 7 acres of alfalfa, all of which was flooded out; that the comparable yield per acre on similar land in said area was 50 bushels per acre for barley and that the average yield per acre of the durum wheat planted upon said land which was flooded out was approximately 5 bushels per acre; that the average price of barley at the present time is approximately \$1.10 per bushel and that the average price of durum wheat is \$3.50 per bushel; that the only expense the petitioners would have not incurred in connection with the particular crop upon said land would be \$4 an acre for combining; that the petitioners also had 7 acres of established alfalfa flooded out which had a value of \$20 per acre; that the petitioners' total loss in 1954 on said piece of land because of flooding was the sum of \$5,474.

13. That the petitioners, who also own the N $\frac{1}{2}$ N $\frac{1}{2}$ of sec. 24, T. 156, R. 66, had planned to plant 50 acres of said land to potatoes and 110 acres of said land to barley in the year 1948; that the average yield on comparable land not flooded that year was 180 hundredweight of potatoes per acre; that the average price was \$2.50 per hundredweight, all of which would have made a gross income on each acre of said land planted to potatoes of \$450; that the petitioners would have incurred an expense that year of \$200 per acre in connection with the raising and harvesting of said potatoes, making a net profit on each particular acre which the petitioners would have earned had it not been for said flooding of \$250 per acre for said 50 acres of potatoes which they had planned to plant; that the average yield of barley in 1948 on comparable land in said area was 50 bushels per acre, and that the average price per bushel for barley in 1948 was \$1.45 per bushel; that the average expense per acre which the petitioners would have been required to incur for planting and harvesting the barley was \$15 per acre; that the above-described land was fertilized in 1947; that the total loss upon said land suffered by the petitioners in 1948 was \$18,825.

That in 1949 all of said area was flooded as it was in 1948 and the petitioners had planned to plant 50 acres to potatoes and 110 acres to wheat; that the average yield for potatoes in 1949 on comparable land in said area was 180 hundredweight per acre; that the average price was \$2 per hundredweight for said year; that the petitioners lost on said 50 acres which they had planned to plant to potatoes during said year of 1949 the sum of \$8,000; that the average yield for wheat during said year on comparable land in said area was a minimum of 20 bushels per acre, and that the average expense of raising wheat which would not otherwise have been incurred by the petitioners was \$15 per acre; that the average market price per bushel for wheat during said year was \$2.50; that the petitioners lost by reason of said flooding of said 110 acres which the petitioners had planned to plant to wheat the sum of \$3,850; that the petitioners suffered by reason of said flooding upon said land during 1949 the sum of \$11,850.

That in 1950 said entire piece of land was flooded out and said petitioners had planned to plant 60 acres of said land to wheat and 100 acres of said land to barley; that the average expense per acre which would not have been incurred by the petitioners because said area was not seeded or planted was \$15 per acre; that the average yield for wheat during said year on comparable land in said area was 30 bushels per acre; that the average yield for barley on comparable ground in said area during said year was 50 bushels per acre; that the average price per bushel for barely during said year was \$1.25 per bushel; that the average price for wheat during said year was \$2.40 per bushel; that the loss incurred

by the petitioners by reason of the flooding of said land for said year of 1950 was \$8,170.

That in 1951 the petitioners had planned to plant 100 acres of said land to flax and 60 acres of said land to wheat; that all of said land was flooded during said year of 1951; that the expense per acre not incurred because of the flooding of the land by the petitioners was \$15 per acre; that the average yield for flax on comparable land in said area in 1951 was 15 bushels per acre and that the average yield for wheat on comparable land in said area for said year was 20 bushels per acre; that the average price for flax in 1951 was \$4.50 per bushel; that the average price of wheat during 1951 was \$2.40 per bushel; that the petitioners suffered a total loss by reason of the flooding of said land during 1951 of \$7,230.

That in 1952, 25 acres of said land was summer-fallowed and 50 acres of said land was flooded out; that the balance of said land was put into crop; that the 50 acres flooded out was planned to be put into flax by the petitioners; that the average yield in said area for flax on comparable ground in said area was 18 bushels per acre; that the average price for flax in 1952 was \$4 per bushel; that the expense of preparing the bed for seed and for the seed and threshing and other expenses which the petitioners would not have to incur because said 50 acres was flooded out was \$15 per acre; that the petitioners' loss for 1952 on said land was \$2,850.

That in 1953 the petitioners were able to put the entire area upon said land into crops; that in 1954 the petitioners had started to summer-fallow 25 acres of said land and 15 acres of potatoes were seeded, and 120 acres of the land was seeded to barley; that out of the 120 acres seeded to barley only 1 acre was not flooded out; that the estimated yield of potatoes for 1954 was 180 hundredweight per acre; that the estimated market price is \$2 per hundredweight; that the cost per acre which would have been incurred by the petitioners had they been required to take care of said potatoes during the year and harvest the same was the sum of \$100 per acre, making an estimated loss on said potato crop for said year of \$3,900; that the estimated yield of barley on the said 119 acres which had been seeded which was flooded out was 50 bushels per acre; that the average price for barley is \$1.10 per bushel; that the cost of harvesting barley which the petitioners did not incur because the same was flooded out was \$4 per acre, making a net loss of \$6,069 on said barley crop on said particular land in 1954, or a total loss on said land to the petitioners for said year of 1954 of \$9,969.

14. That the petitioners rented lots 4 and 5 of section 13 from John Whitnack, on a three-fourths, one-fourth basis; that the petitioners planted 65 acres of said land to barley, 55 acres of which was flooded out during the season of 1954; that it is estimated that the yield per acre on said land during 1954 would be 50 bushels per acre and that the average price therefor would be \$1.10 per bushel; that the cost of combining said barley would have been the sum of \$4 per acre; that the net loss on said land during 1954 of the three-fourths thereof to which the petitioners were entitled would be the sum of \$2,103 by reason of said flooding.

15. That the petitioners own the NE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 23 which contains 40 acres more or less; that the petitioners as a result of the flooding lost 5 acres of hayland during the years 1948, 1949, 1950, 1951, 1952, and 1954; that the estimated loss to the petitioners by reason of said flooding would be the sum of \$5 per acre of said flooded land per year or a total loss therefrom by reason of said flooding of the sum of \$150.

16. That the petitioners also own lots 1, 2, 3, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of sec. 14, T. 156, R. 66, much of which is planted to crop; that, however, inasmuch as this land is protected by some high ground on the south, the petitioners were able to, by the construction of a dike on said land along the lake shore of said Lake Alice at the cost of \$300 to them, protect said area from extensive flooding; that they are hereby making claim for the cost of said construction of \$300.

17. That the petitioners are the owners of SW $\frac{1}{4}$ sec. 23 which they farm which contains 152 acres more or less; that on said land there were 122 acres flooded out during the year of 1948; that the petitioners had planned to plant flax on said land in said year; that the average yield of flax on comparable ground during said year was 18 bushels per acre in said area; that the average price of flax in 1948 was \$6 per bushel; that the expenses per acre for seeding and threshing said flax which the petitioners did not have to incur because of said flooding was \$15 per acre; that the petitioners lost by reason of said flooding during 1948 on said land the sum of \$11,346.

That in 1949 the petitioners lost 122 acres of said land to flooding; that the petitioners had planned to plant said 122 acres to barley in said year of 1949; that the average yield on comparable land in said area during 1949 of barley was 40

bushels per acre; that the average price per bushel for barley was \$1.25 in said year; that the average cost per acre of preparing the soil and for seeding and harvesting which the petitioners were not required to incur because of said flooding was \$15 per acre; that the loss incurred by the petitioners by reason of said flooding in 1949 of said piece of land was \$4,270.

That during 1950, 135 acres of said land was flooded; that the petitioners had planned to plant in 1950 said 135 acres to wheat; that the average yield of wheat on comparable land in this area in 1950 was 25 bushels per acre; that the average price for wheat during 1950 was \$2.40 per bushel; that the average cost and expenses which the petitioners were not required to incur because of said flooding was approximately \$15 per acre; that the loss to the petitioners by reason of said flooding in 1950 on said piece of land was \$6,075.

That in 1951 135 acres of said land was flooded; that the petitioners had planned to plant barley upon said land in 1951; that the minimum yield of barley in 1951 in said area on comparable land was 40 bushels per acre; that the average price per bushel for barley during said year was \$1.35; that the expense per acre for the preparation of soil and seeding and threshing and other expenses which the petitioners were not required to incur because of said flooding out of said land was \$15 per acre; that the petitioners suffered a net loss on said land in 1951 by reason of flooding in the amount of \$5,265.

That in the years of 1952 and 1953 there was no loss on the said land from flooding.

That in 1954 the petitioners had 20 acres of said land seeded to sweet clover, 50 acres of said land planted to wheat and 65 acres of said land planted to barley, all of which was flooded out after the same was seeded; that the petitioners estimate a loss of the sweet clover crop would run approximately \$20 per acre or a total loss of \$400 by reason of the loss of said sweet clover; that the 50 acres of wheat would have produced an estimated yield during 1954 of 10 bushels per acre at an average price of \$2.20 per bushel; that the estimated yield of barley on said 65 acres would be 50 bushels per acre in said year of 1954 and that the average price therefor would be \$1.10 per bushel; that the cost of harvesting which the petitioners did not have to incur by reason of said crop flooding out was \$4 per acre for the wheat planted and for the said barley planted; that the loss suffered by the said petitioners during 1954 on said particular piece of land by reason of said flooding would be the sum of \$4,615.

18. That a fair and reasonable estimate of the total loss suffered by the petitioners by reason of said flooding is the sum of \$194,232 upon the lands described in this petition, from the years 1948-54 inclusive.

19. That the petitioners herein verily believe that all of said flooding heretofore described which caused all of the said damages to the petitioners heretofore described was caused as a direct or indirect result of the construction of the said dams, spillways, barriers, drainage ditches and dikes by the agencies of the United States Government which have been heretofore described.

20. That the petitioners do not appear to have any adequate remedy at law for the said damages which they suffered.

21. That by reason of said damages which the petitioners have suffered as heretofore set out, the petitioners have been placed in serious financial distress.

22. That the said Fish and Wildlife Service of the United States Department of the Interior during the present winter, upon the request of the State Water Commission of the State of North Dakota and the farmers in said area have taken some corrective measures to alleviate the flooding in the area of said Lake Alice by blowing out the channel and dam from and at the outlet of said Lake Alice and by blowing out the said Wildlife Road so that water upon the north side of said road might flow into said Lake Alice; that, however, the said Wildlife Service has been requested many times in the past by the petitioners herein and others to take corrective measures but the said Wildlife Service has failed and refused to carry out any corrective measures up until the present time.

3. That the said land heretofore described at the present time has large amounts of water upon the same due to the said flooding and that it will take considerable time for said flooded land to dry up so that the same may be used in the petitioners' farming operations; that the petitioners estimate that said flooded lands or parts thereof will be lost for at least 1 year and possibly 3 years from the farming operations of the petitioners.

WHEREFORE the petitioners herein petition the Honorable Congress of the United States of America to pay their claim of \$194,232, or give the petitioners such sum as to them seems just and proper to compensate them for the injuries and damages which they have suffered by reason of the said acts of the said

agencies of the Government of the United States which have heretofore been described in the petition, or give the petitioners herein such other relief as to the Honorable Congress of the United States seems just and proper under the circumstances.

Dated this 27th day of January, 1955.

ALBERT MOEN,
Petitioner.
EVELYN MOEN,
Petitioner.

STATE OF NORTH DAKOTA,
County of Ramsey, ss:

Albert Moen, being first duly sworn, deposes and says that he is one of the petitioners in the above-entitled petition for allowance of claim by Congress, and that he has read the same and knows the contents thereof and that the same is true except as to any matter alleged on information and belief, and as to such matters he believes them to be true.

ALBERT MOEN.

Subscribed and sworn to before me this 27th day of January, 1955.

[SEAL]

FRANCIS E. FOUGHTY,
Notary Public, N. Dak.

My commission expires March 18, 1958.

STATE OF NORTH DAKOTA
County of Ramsey, ss:

Evelyn Moen, being first duly sworn, deposes and says that she is one of the petitioners in the above-entitled petition for allowance of claim by Congress, and that she has read the same and knows the contents thereof and that the same is true except as to any matter alleged on information and belief, and as to such matters she believes them to be true.

EVELYN MOEN.

Subscribed and sworn to before me this 27th day of January, 1955.

[SEAL]

FRANCIS E. FOUGHTY,
Notary Public, N. Dak.

My commission expires March 18, 1958.

Statement of claim—Albert Moen and Evelyn Moen, claimants, against the United States of America

[Albert Moen and Evelyn Moen are the owners of lots 1, 2, and 3, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 14, SW $\frac{1}{4}$, and the W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13, NE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 23, N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24, all in T. 156, R. 66 W., of the 5th principal meridian in Chain Lakes Township, County of Ramsey, State of North Dakota.]

LOSS IN 1948

Description of land	Acre loss	Estimated yield per acre	Average price	Gross loss per acre	Ex-penses saved per acre	Total loss
SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13...	195	180 hundred-weight, potatoes.	\$2.50 per hundred-weight.	\$450.00	\$200.00	\$48,750
N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24.....	50	do.....	do.....	450.00	200.00	12,500
SW $\frac{1}{4}$ sec. 23.....	110	50 bushels, barley.	\$1.45 per bushel.	72.50	15.00	6,325
	122	18 bushels, flax....	\$6.....	108.00	15.00	11,346
Total.....						78,921

LOSS IN 1949

Description of land	Acre loss	Estimated yield per acre	Average price	Gross loss per acre	Ex-penses saved per acre	Total loss
SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13...	195	180 hundred-weight, potatoes.	\$2 per hundred-weight.	\$360.00	\$200.00	\$31,200
N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24.....	50	do.....	\$2.....	360.00	200.00	8,000
SW $\frac{1}{4}$ sec. 23.....	110	20 bushels, wheat...	\$2.50 per bushel...	50.00	15.00	3,850
	122	40 bushels, barley.	\$1.25.....	50.00	15.00	4,270
Total.....						47,320

See footnotes at end of table, p. 51.

Statement of claim—Albert Moen and Evelyn Moen, claimants, against the United States of America—Continued

LOSS IN 1950

Description of land	Acre loss	Estimated yield per acre	Average price	Gross loss per acre	Expenses saved per acre	Total loss
SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13..	100	50 bushels, barley.	\$1.25.....	\$62.50	\$15.00	\$4,750
105		30 bushels, wheat.	\$2.40.....	72.00	15.00	5,415
N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24.....	60	do.	\$2.40.....	72.00	15.00	3,420
100		50 bushels, barley.	\$1.25.....	62.50	15.00	4,750
SW $\frac{1}{4}$ sec. 23.....	135	25 bushels, wheat.	\$2.40.....	60.00	15.00	6,075
Total.....						24,410

LOSS IN 1951

SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13..	70	50 bushels, barley.	\$1.35.....	\$67.50	\$15.00	\$3,675
100		20 bushels, wheat.	\$2.40.....	48.00	15.00	3,300
N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24.....	100	15 bushels, flax.	\$4.50.....	67.50	15.00	5,252
60		20 bushels, wheat.	\$2.40.....	48.00	15.00	1,980
SW $\frac{1}{4}$ sec. 23.....	135	40 bushels, barley.	\$1.35.....	54.00	15.00	5,265
Total.....						19,472

LOSS IN 1952

SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13..	75	18 bushels, flax.	\$4.00.....	\$72.00	\$15.00	\$4,275
N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24.....	50	do.	\$4.00.....	72.00	15.00	2,550
SW $\frac{1}{4}$ sec. 23.....	(2)					
Total.....						7,125

LOSS IN 1953

SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13..	(3)					\$375
N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24.....	(2)					
SW $\frac{1}{4}$ sec. 23.....	(2)					
Total.....						375

LOSS IN 1954

SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ sec. 13..	85	50 bushels, barley.	\$1.10.....	\$55.00	\$4.00	\$4,335
74		5 bushels, durum.	\$3.50.....	17.50	4.00	899
(4)						140
N $\frac{1}{2}$ N $\frac{1}{2}$ sec. 24.....	119	50 bushels, barley.	\$1.10.....	55.00	4.00	6,069
15		180 hundred-weight potatoes.	\$2 per hundred-weight.	360.00	100.00	3,900
SW $\frac{1}{4}$ sec. 23.....	20	(5)				400
50		10 bushels, wheat.	\$2.20.....	22.00	4.00	900
65		50 bushels, barley.	\$1.10.....	55.00	4.00	3,315
Total.....						20,058
NE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 23.....	(6)					150
Lots 1, 2, 3, and SE $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 14.	(7)					300
Lots 4 and 5, sec. 55, 13 seeded from John Whittack on $\frac{3}{4}$ - $\frac{1}{4}$ basis.		50 bushels, barley.	\$1.10.....	55.00	4.00	2,805
Petitioners share.....						2,103
Grand total loss.....						200,234

¹ Petitioners also own SW $\frac{1}{4}$ sec. 23, same township.

² No loss on this land from flooding.

³ None of this land was flooded out, but 75 acres was infested with water sedge weed caused by flooding estimated damage.

⁴ 7 acres established alfalfa which had a value of \$20 per acre.

⁵ Seeded to sweet clover, estimated loss of \$20 per acre.

⁶ 5 acres of hay land per year, during the years 1948-53, at \$5 per acre, estimated loss.

⁷ Cost of construction of dike on said land to protect said area from flooding.

In the Matter of the Claim of Annie Elsperger, Maza, N. Dak., Against
the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant and for his (or their) claim or claims against the United States of America, respectfully petitions and shows the honorable Congress of the United States as follows, to wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has made large investments in buildings, equipment, farm machinery, and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of refilling this lake, for the purpose of having a wildlife refuge for migratory waterfowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the said Fish and Wildlife Service also placed rock fills and dams in the coulee between Lake Alice and Lake Irvine and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by these barriers, rock fills and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to

back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, and are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years 1940 through 1947, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of sixteen Thousand and no/100 (\$16,000.00) dollars.

VI

That at the present time a considerable portion of petitioner's land is still flooded and will remain flooded for from 1 to 5 years, unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the water commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

VIII

This petitioner and her late husband, John Elsperger, farmed this land as owners and operators during the years 1940 through 1947.

WHEREFORE, your petitioner(s) respectfully petitions (petition) the Honorable Congress of the United States that an appropriate Bill be enacted by your honorable body to reimburse your petitioner(s) for such loss so sustained.

Dated this 10th day of February 1955.

ANNIE ELSPERGER, *Petitioner.*

Claim of Annie Elsperger

RECAPITULATION

Years 1948 through 1954:

SW $\frac{1}{4}$ sec. 31, T. 157 N., R. 65, Towner County, N. Dak-----	\$10,350.00
Sec. 10, T. 156, N., R. 66 W., Ramsey County, N. Dak-----	2,661.50
N $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 1, T. 156, N., R. 66 W., Ramsey County, N. Dak-----	8,358.75
Lots 11, 13, 14, and 15 of sec. 3, T. 156, N., R. 66 W., Ramsey County, N. Dak-----	6,166.37
Lots 1, 2, 7, 8, 9, and 10, sec. 2, T. 156, N., R. 66 W., Ramsey County, N. Dak-----	14,856.55
Lots 1, 2, and 3, sec. 10, T. 156 N., R. 66 W., Ramsey County, N. Dak-----	632.50
SW $\frac{1}{4}$ sec. 31, T. 157 N., R. 65 W., Towner County, N. Dak-----	825.00
Total-----	43,850.67
Claim for damages for the years 1940 through 1947-----	16,000.00
	59,850.67

*Claim of Annie Elsperger (1/4 clear, as owner)*SW $\frac{1}{4}$ sec. 31-157-65, Towner County, N. Dak., 160 acres

1948, would have seeded:

80 acres flax, 18 bushels, at \$6-----	\$8,640
80 acres barley, 50 bushels, at \$1.45-----	5,800

Total-----14,440

1/4 loss for 1948-----\$3,610

1949, would have seeded:

40 acres summer-fallowed.	
80 acres wheat, 20 bushels, at \$2.50-----	\$4,000
40 acres barley, 40 bushels, at \$1.25-----	2,000

Total-----6,000

1/4 loss for 1949-----1,500

1950, would have seeded:

140 acres flooded.	
20 acres summer-fallowed.	
40 acres wheat, 30 bushels, at \$2.40-----	\$2,880
80 acres barley, 50 bushels, at \$1.25-----	5,000

Total-----7,880

1/4 loss for 1950-----1,970

1951, would have seeded:

80 acres flooded.	
80 acres flax, 15 bushels, at \$4-----	\$4,800

1/4 loss for 1951-----1,200

1952, would have seeded:

40 acres flooded.	
40 acres barley, 50 bushels, at \$1.35-----	\$2,700

1/4 loss for 1952-----675

1953, all harvested; 100 acres summer-fallowed.

1954, would have seeded:

100 acres flax, 18 bushels, at \$3.10-----	\$5,580
--	---------

1/4 loss for 1954-----1,395

60 acres farmed by Robert Elsperger.

Total-----10,350

Claim of Annie Elsperger (1/4 clear, as owner)—Continued

Sec. 10-156-66, Ramsey County, N. Dak. Deeded land in sec. 10-156-66,
72.50 acres

1948 (30 acres seeded; 42.40 acres flooded) would have seeded:		
42 acres flax, 18 bushels, at \$6	\$4, 536	
1/4 loss for 1948		\$1, 184. 00
1949 (20 acres seeded; 52.40 acres flooded) would have seeded:		
52 acres wheat, 20 bushels, at \$2.50	\$2, 600	
1/4 loss for 1949		650. 00
1950, complete flood: 32.40 acres summer-fallow:		
40 acres barley, 50 bushels, at \$1.25	\$2, 500	
1/4 loss for 1950		625. 00
1951, 12 acres flooded:		
12 acres flax, 15 bushels, at \$4.50	\$810	
1/4 loss for 1951		202. 50
1952: All cropped.		
1953: All cropped.		
1954: Farmed by Robert Elsperger.		

Total 2, 661. 50

N1/2NW1/4, sec. 1-156-66, Ramsey County, N. Dak., 117.35 acres

1948, would have seeded:		
27 acres summer-fallow.		
60 acres flax, 18 bushels, at \$6	\$6, 480	
30 acres barley, 59 bushels, at \$1.45	2, 195	
Total	8, 675	
1/4 loss for 1948		\$2, 168. 75
1949, would have seeded:		
37 acres summer-fallow.		
20 acres flax, 18 bushels, at \$3.75	\$1, 350	
60 acres wheat, 20 bushels, at \$2.50	3, 000	
Total	4, 350	
1/4 loss for 1949		1, 087. 50
1950, would have seeded:		
17 acres summer-fallow.		
40 acres wheat, 30 bushels, at \$2.40	\$2, 880	
60 acres barley, 50 bushels, at \$1.25	3, 750	
Total	6, 630	
1/4 loss for 1950		1, 657. 50
1951 (37 acres seeded and harvested) would have seeded:		
60 acres barley, 50 bushels, at \$1.35	\$4, 050	
20 acres flax, 15 bushels, at \$4.50	1, 350	
Total	5, 400	
1/4 loss for 1951		1, 350. 00
1952 (40 acres flooded) would have seeded 40 acres flax, 18 bushels, at \$4	\$2, 880	
1/4 loss for 1952		720. 00
1953 seeded and harvested.		
1954 (seeded, complete flood in June):		
Summer-fallow, 17.35 acres.		
Barley, 100 acres, 50 bushels, at \$1.10	\$5, 500	
1/4 loss for 1954		1, 375. 00
Total		8, 358. 75

Claim of Annie Elspenger (¼ clear, as owner)—Continued

Lots 11, 13, 14, and 15, sec. 3-156-66, Ramsey County, N. Dak., 109 acres

1948 (all flooded) would have seeded:

40 acres summer-fallow.

40 acres flax, 18 bushels, at \$6----- \$4, 320. 00

29 acres barley, 50 bushels, at \$1.45----- 2, 102. 50

Total----- 6, 422. 50

¼ loss for 1948----- \$1, 605. 62

1949 (all flooded) would have seeded:

29 summer-fallow.

80 acres wheat, 20 bushels, at \$2.50----- \$4, 000. 00

¼ loss for 1949----- 1, 000. 00

1950 (18 acres seeded; 91 acres flooded) would have seeded:

29 acres wheat, 30 bushels, at \$2.40----- \$2, 088. 00

62 acres barley, 50 bushels, at \$1.25----- 3, 875. 00

Total----- 5, 963. 00

¼ loss for 1950----- 1, 490. 75

1951 (29 acres summer-fallowed; 80 flooded) would have seeded:

60 acres flax, 15 bushels, at \$4.50----- \$4, 050. 00

20 acres barley, 50 bushels, at \$1.35----- 1, 350. 00

Total----- 5, 400. 00

¼ loss for 1951----- 1, 350. 00

1952 (59 acres seeded; 40 acres flooded) would have seeded:

40 acres flax, 18 bushels, at \$4----- \$2, 880. 00

¼ loss for 1952¹----- 720. 00

Total----- 6, 166. 37

¹ Sold land in 1953.Lots 1, 2, 7, 8, 9, and 10 of sec. 2, T. 156 N., R. 66 W., in Ramsey County,
N. Dak., 198.55 acres

1948 (none seeded; all flooded) would have seeded:

40 acres summer-fallow.

80 acres flax, 18 bushels, at \$6----- \$8, 640. 00

78½ acres barley, 50 bushels, at \$1.45----- 5, 691. 45

Total----- 14, 331. 45

¼ loss for 1948----- \$3, 582. 86

1949 (none seeded; all flooded) would have seeded:

50 acres summer-fallow.

120 acres wheat, 20 bushels, at \$2.50----- \$6, 000. 00

28½ acres flax, 18 bushels, at \$3.75----- 1, 923. 75

Total----- 7, 923. 75

¼ loss for 1949----- 1, 980. 94

1950 (none seeded; all flooded) would have seeded:

50 acres summer-fallow.

78½ acres wheat, 30 bushels, at \$2.40----- \$5, 652. 00

70 acres barley, 50 bushels, at \$1.25----- 4, 375. 00

Total----- 10, 027. 00

¼ loss for 1950----- 2, 506. 75

1951 (20 acres barley seeded) would have seeded:

40 acres summer-fallow.

50 acres wheat, 20 bushels, at \$2.40----- \$2, 400. 00

20 acres barley, 50 bushels, at \$1.35----- 1, 350. 00

68½ acres flax, 15 bushels, at \$4.50----- 4, 623. 75

Total----- 8, 373. 75

¼ loss for 1951----- 2, 093. 63

Claim of Annie Elsperger (¼ clear, as owner)—Continued

Lots 1, 2, 7, 8, 9, and 10 of sec. 2, T. 156 N., R. 66 W., in Ramsey County,
N. Dak., 198.55 acres—Continued

1952 (40 acres seeded) would have seeded:		
100 acres wheat, 20 bushels, at \$2.50	\$5,000.00	
58½ acres flax, 18 bushels, at \$4	4,212.00	
Total	9,212.00	
¼ loss for 1952		\$2,303.00
1953, no loss.		
1954 (all seeded. Complete flood in June):		
40 acres durum, 7 bushels, at \$3	\$840.00	
158½ acres barley, 50 bushels, at \$1.10	8,717.50	
Total	9,557.50	
¼ loss for 1954		2,389.37
Total		14,856.55

Lots 1, 2 and 3 of Sec. 10-156-66

1954 (seeded but flooded in June):		
15 hard wheat, 10 bushels to 150 bushels at \$2.20	\$330.00	
40 barley, 50 bushels to 2,000 bushels, at \$1.10	2,200.00	
Total	2,530.00	
¼ loss for 1948		\$632.50

SW¼ Sec. 31-157-65, Towner County, N. Dak.

1954 (not seeded, but would have seeded):		
60 acres barley, 50 bushels to 3,000 bushels, at \$1.10	\$3,300.00	
Landowner's ¼ loss for 1954		\$825.00

ERICKSTAD & FOUGHTY,
Devils Lake, N. Dak., February 22, 1955.

Re Flood damage claims

HON. USHER L. BURDICK,
Congressman from the State of North Dakota,
Washington, D. C.

DEAR MR. BURDICK: Your letter of February 4, 1955, was certainly encouraging news to the farmers in the distressed area in the vicinity of Lake Alice. Many of the clients who came into the office concerning their flood claims would read your letter, and even though they came into the office frowning they always left smiling after reading your letter as your letter gave them hope and indicated to them that their claims were going to get some consideration by Congress.

It has taken me a little time to get all of the information which I needed from my clients to prepare statements of claim for each of them, but I have now obtained all of the information I need and have prepared at this time statements of claim which is more or less an itemization of what they consider their damage was by reason of the flooding in the Lake Alice area. It is my intention to prepare petitions similar to the ones that I have submitted in the Albert and Evelyn Moen claim and the L. A. Anderson claim for each of the claimants. Your letter of February 4 indicated that you wanted an itemized statement and I have done my best to comply with your request.

You will find enclosed herewith, in duplicate, the following claims:

Roy Cowan	\$21,600
Dorothy Gessner	3,600
Norris Larson	11,300
L. A. Anderson	31,190
Albert and Evelyn Moen	200,234
Allan Overland and Reuben Overland	8,801
Reuben Overland	8,800
C. N. Barrett claim as agent of landowners	8,800
Joseph Hartl	9,150

You will notice that one of the foregoing claims is extremely large, that of Albert and Evelyn Moen. The reason for this claim being so large is that these folks were potato farmers and during the years 1948 and 1949 there was, as I recall, a support price on potatoes so that the market price stayed up quite high. Potato farming requires a great deal of expense for storage facilities and other special machinery, all of which the Moen's had ready to raise potatoes, however, were prevented from doing so by reason of the flooding.

I have based these claims largely on the information given to me by the farmers as to what they thought their injury was by reason of the flooding, and in all cases they have indicated that they thought the flood damage was entirely due to the acts committed by the agencies of the Government in constructing the barriers and other works which they completed, interfering with the natural drainage of the area.

If in going over these claims you think any of them or all of them are rather high, please feel free in the introduction of your bill to reduce the same in your bill which will be introduced on behalf of the claimant. The claimants will be grateful for whatever Congress will see fit to give them. There is, however, a very strong feeling that it was the actions of the Government's agencies that have placed the claimants in their present difficulties due to the flooding of their lands.

Another attorney in town, Mack V. Traynor, is representing a number of the claimants in the area, and in view of the fact that in your letter you believed that an omnibus bill should be introduced covering the total amount of damage suffered by the various claimants we are enclosing under the same cover the claims of the clients of Mr. Traynor as we feel that all of the claimants should receive equal treatment before Congress.

After the private bill for the payment of the claims of the claimants in the Lake Alice area is introduced I suppose that the appropriate committee will hold investigation or hearing concerning the same. I have no experience before legislative committees and I would appreciate any information or suggestions you would make to us relative to conducting the part of the claimants in the hearings which will be held on the private bill. A number of the claimants will be able to appear in person and probably by their counsel before the committee. However, others with smaller claims will probably not be able to get away or be able to afford the expense of a trip to Washington, D. C., to appear before the committee. Furthermore, when it comes to a matter of furnishing proof probably the only way to show definitely that the acts committed by the Government agencies in the area of Lake Alice and also along the drainage system going into Lake Alice and leaving Lake Alice would be by survey made by competent engineers. The cost of such a survey would probably run between \$30,000 and \$50,000. Such a cost to be advanced by the claimants would be prohibitive. However, it is quite obvious that the volume of water flowing through the drainage system of which Lake Alice is a part was tremendously increased by the construction of dams across the outlets of Rock Lake and the channeling through the divide between Rock Lake and Lake Alice so that the water would flow in a southerly direction instead of a northerly direction from the Rock Lake area. Along the various drainage streams flowing into Mauvais Coulee which flows into Lake Alice, drainage ditches were made, of course under the supervision of the Soil Conservation Service, which also did increase the volume of water.

The maps of the Fish and Wildlife Service show the various dams that were constructed and the ditches that were dug so I believe that we will have no difficulty establishing that such acts which were committed by the Government agencies did have a substantial influence in effecting the flooding of the area in the vicinity of Lake Alice. However, it might be difficult for us, if not impossible, to prove to what extent the manmade barriers and ditches had in effecting the flooding of the claimants' lands as I am well aware that the Fish and Wildlife Service, when consulted, will claim that most of the flooding of the claimants' lands was due to other factors.

For the next 3 or 4 weeks we will probably be caught here in Devils Lake and elsewhere in the area in the spring terms of court so as attorneys for our clients would probably find it extremely difficult, if not almost impossible, to get away for a committee hearing until the latter part of March.

I trust that we shall hear from you with further suggestions and advice in the near future. My clients and I are extremely grateful to you for what you have already done relative to my clients' claims.

Sincerely yours,

F. E. FOUGHTY.

In the Matter of the Claim of Bernard F. Lange, Gilmore Avenue, Winona, Minn.,
Against the United States of America

PETITION FOR ALLOWANCE OF CLAIM BY THE CONGRESS OF THE UNITED STATES

Now comes the above-named claimant for his (or their) claim or claims against the United States of America, respectfully petitions and shows the Honorable Congress of the United States as follows, to wit:

I

That the petitioner(s) is (are) either the owner(s) and operator(s) of the lands hereinafter described, or the owner(s) and landlord(s) of the lands hereinafter described, or the landlord(s) or tenant(s) of the same, during all of the years hereinafter referred to. That all of such lands are rich, fertile, and productive, and capable of producing large crops of grain, and have so produced, and do so produce such large crops, except when the same is flooded.

II

That during the years petitioner(s) has (have) made large investments in buildings, equipment, farm machinery and other facilities, so as to properly till and cultivate said lands, on the theory that the same would not be flooded and would be available for farming purposes. That said lands are contiguous to or in the vicinity of what is known as Lac Aux Morts, also known as Lake Alice, and the Mauvais Coulee, in Ramsey County, N. Dak.

III

That during the drought years of the 1930's the said Lake Alice became dry, or practically dry. Therefore, at about that time, the Fish and Wildlife Service of the United States Department of the Interior entered upon a project of re-filling this lake for the purpose of having a wildlife refuge for migratory water-fowl. That in order to accomplish this the said Fish and Wildlife Service, during the latter part of the 1930's, did the following things, to wit:

A. Dammed the outlet to the north from Rock Lake, so that the natural overflow of this lake was diverted to the south instead of its natural channel to the north into Canada. The result was that when Rock Lake, which is approximately 50 miles north of Lake Alice, filled up and overflowed, great quantities of water followed the coulee from the south outlet of Rock Lake through a drainage ditch constructed by the said Wildlife Service, and greatly increased the natural flow of water into Lake Alice.

B. That the Fish and Wildlife Service constructed a roadway, which they term a dam, along the north shore of said Lake Alice, and then extending to the north, with the intent of retaining the water in said lake. That, however, there were no culverts in said dam, and when Lake Alice filled, the water flowed over this roadway or dam and flooded the lands surrounding. That then when Lake Alice receded, there was no way of getting this water back over this dam into Lake Alice.

C. That the Fish and Wildlife Service also placed rock fills and dams in the coulee between Lake Alice and Lake Irvine, and thus obstructed the natural flow of the water from the outlet of Lake Alice to Lake Irvine.

D. That during such time, and for years thereafter, another department of the Government, the Soil Conservation Service of the United States urged and promoted farmers to dig drainage ditches, so as to drain their sloughs and potholes in an unnatural manner into the channels or coulees flowing down toward Lake Alice. That, therefore, many of the farmers north of Lake Alice did this, thus greatly increasing the flow of water into Lake Alice.

E. That in a further attempt to retain the water in Lake Alice, the Fish and Wildlife Service constructed a dam in the Mauvais Coulee south of Church's Ferry, greatly slowing up the flow of water in said coulee and backing the same up into Lake Irvine and into Lake Alice, and flooding the lands in that vicinity. That the natural flow of water outside of the divide at Rock Lake where the flow is to the north, is to the south into the Mauvais Coulee through Lake Alice, Lake Irvine, Pelican Lake and into Devils Lake, but this natural flow has been retarded and obstructed by the Fish and Wildlife by these barriers, rock fills and dams in the Mauvais Coulee. That the drop in elevation per mile is very slight, so that any slight interference with the natural flow causes the water to back up and flood the lands in the vicinity of Lake Alice. That Devils Lake would be very happy

to have all of this water in Devils Lake proper, which would happen if the Mauvais Coulee from Lake Alice south were opened up instead of having been dammed as has been done by the Fish and Wildlife Service.

IV

That before some of this diking and damming was done by the Fish and Wildlife Service, certain so-called easements were obtained from some of the adjoining property owners. That not all of the land is under easement, however, and at the time easements were taken, it was represented to the persons giving the easements that the Fish and Wildlife Service would control the level of the water in Lake Alice, so that the adjacent property owners would not be damaged. This was merely a verbal agreement and the easements were without any consideration to the landowners, are broad and all-inclusive, unilateral, and all for the benefit of the Fish and Wildlife Service and its protection, and with no like benefit for the landowner, and nothing to enforce the verbal agreements made at the time they were obtained.

V

That in addition to the claim or claims of the petitioner(s) attached hereto, the same petitioner(s) also has (have) claims for previous years prior to 1948. That this particular petitioner(s) has (have) been farming or owning said land for the years 1928 to present time, and a reasonable claim for such damages for such years, in addition to the damages for the years 1948 through 1954, would be a total of \$10,205.

VI

That at the present time a considerable portion of petitioner land is still flooded and will remain flooded for from 1 to 5 years unless immediate steps are taken to alleviate the situation. That many requests have been made of the Fish and Wildlife Service to take steps to so alleviate the situation, but nothing has been done, until the fall of 1954, when the Water Commission of the State of North Dakota became interested and rendered excellent service, and now part of the dam and obstructions on the Mauvais Coulee between Lake Alice and Lake Irvine has been removed, and part of the so-called dam to the north of Lake Alice has been dynamited and water permitted to flow from the land north of Lake Alice, which has been flooded, into Lake Alice, in an effort to give some temporary relief, and at the same time which is an admission on the part of the Fish and Wildlife Service that their construction of these dams and barriers has caused this flooding situation.

VII

That the petitioner(s) does (do) not appear to have any reasonable and adequate remedy at law for the recovery of the damages which he (they) have suffered by virtue of the acts of the Fish and Wildlife Service and other governmental agencies.

WHEREFORE your petitioner(s) respectfully petitions (petition) the Honorable Congress of the United States that an appropriate bill be enacted by your Honorable Body to reimburse your petitioner(s) for such loss so sustained.

Dated this 23 day of March, 1955.

BERNARD F. LANGE,
Petitioner.

Claim of Bernard F. Lange, Gilmore Avenue, Winona, Minn.—80 acres, W½NW¼ of Sec. 26-156-66, Ramsey County, N. Dak.

1948 (farmed as landlord to receive one-half of the crop) 65 acres barley seeded and flooded out:		
40 bushels per acre at \$1.30.....	\$2, 600	
Expense per acre 65 acres at \$12.....	770	
Gross loss.....	3, 370	
Loss for 1948 landlord's share.....		\$1, 685
1949 (farmed as landlord to receive one-half of the crop) 80 acres wheat seeded; all were flooded:		
20 bushels per acre at \$2.25 per bushel.....	\$3, 600	
Expense per acre \$13.....	1, 040	
Gross loss.....	4, 640	
Loss for 1949 landlord's share.....		2, 320
1950 (farmed as landlord to receive one-half of the crop): 80 acres of wheat seeded; all were flooded:		
30 bushels per acre at \$2.40.....	5, 760	
Expense per acre, 80 at \$15.....	1, 200	
Gross loss.....	6, 960	
Loss for the 1950 landlord's share.....		3, 480
1951 (farmed as landlord to receive one-half of crop; due to excess runoff of water in the spring, land was not seeded; entire 80 acres to fallow):		
Expense, 80 acres at \$10 per acre.....	800	
Loss for 1951 landlord's share.....		400
1954 (farmed as landlord to receive one-half of crop): 80 acres barley seeded; all 80 acres flooded:		
80 acres at 40 bushels per acre at \$1.15 per bushel.....	3, 680	
Expense per acre, 80 acres at \$12.....	960	
Gross loss.....	4, 640	
Loss for 1954 landlord's share.....		2, 320
Grand total.....		10, 205

Statement of claim—Allan Overland and Reuben Overland, claimants, against the United States of America

[Allan Overland is the renter and Reuben Overland is the owner of NW¼, W½NE¼, and N½SE¼ sec. 3, T. 156, R. 66, and SE¼ sec. 33, T. 156, R. 66, all in Ramsey County, N. Dak.]

LOSS IN 1954

Description of land	Acre loss	Estimated yield per acre	Average cost per bushel	Loss
<i>Bushels</i>				
NW¼ sec. 3:				
Barley.....	75	40	\$1. 15	\$3, 450. 00
Durum wheat.....	10	5	3. 40	170. 00
Hard wheat.....	4	10	2. 02	80. 80
W½NE¼ sec. 3:				
Barley.....	22	40	1. 15	1, 012. 00
Wheat.....	15	10	2. 02	303. 00
N½SE¼ sec. 3: Barley.....	36	40	1. 15	1, 656. 00
SE¼ sec. 33: Barley.....	48	50	1. 15	2, 760. 00
Total, 210 acres loss.....				9, 431. 80
Subtract expense estimated for combining which was not necessary because crops planted were flooded out. \$3 per acre, 210 acres.....				-630. 00
Total loss minus expenses saved.....				8, 801. 80
¾ thereof to Allan Overland, renter.....				4, 400. 90
¾ thereof to Reuben Overland, owner.....				4, 400. 90

NOTE.—There will be future loss because of water standing on the land.

Statement of claim—Reuben Overland, claimant, against the United States of America

[Reuben Overland has been the renter of the NE $\frac{1}{4}$ sec. 34, T. 156, R. 66 W., of the 5th principal meridian in Chain Lakes Township, county of Ramsey, State of North Dakota, from and including 1948 up to the present time, on a 50-50 basis]

Description of land	Loss in acres from flooding	Loss per acre	Total loss
Loss in 1948: NE $\frac{1}{4}$ sec. 34	160	\$20	\$3,200
Loss in 1949: NE $\frac{1}{4}$ sec. 34	160	20	3,200
Loss in 1950: NE $\frac{1}{4}$ sec. 34	160	20	3,200
Loss in 1951: NE $\frac{1}{4}$ sec. 34	160	20	3,200
Loss in 1952: Little loss, no claim made therefor	-----	-----	-----
Loss in 1953: Little loss, no claim made therefor	-----	-----	-----
Loss in 1954: NE $\frac{1}{4}$ sec. 34	160	30	4,800
Grand total loss on land	-----	-----	17,600
Total loss suffered by claimant, $\frac{1}{2}$ thereof	-----	-----	8,800

NOTE.—There will be future loss because of water standing on the land.

Statement of claim—Norris Larson, claimant, against the United States of America

[Norris Larson has been the renter of the S $\frac{1}{2}$ sec. 6, T. 156, R. 65 W., of the 5th principal meridian in De Groat Township, county of Ramsey, State of North Dakota, from and including 1948 up to the present time, on a 50-50 basis]

Description of land	Loss (in acres) from flooding	Loss per acre	Total loss
Loss in 1948: S $\frac{1}{2}$ sec. 6	200	\$20	\$4,000
Loss in 1949: S $\frac{1}{2}$ sec. 6	200	20	4,000
Loss in 1950: S $\frac{1}{2}$ sec. 6	200	20	4,000
Loss in 1951: S $\frac{1}{2}$ sec. 6	150	20	3,000
Loss in 1952: S $\frac{1}{2}$ sec. 6	80	20	1,600
Loss in 1953: No lands flooded	-----	-----	-----
Loss in 1954: S $\frac{1}{2}$ sec. 6	200	30	6,000
(80 acres of land were planted to barley in 1954, 30 acres to flax and 100 acres of hay land.)	-----	-----	-----
Grand total loss on land	-----	-----	22,600
Claimant's claim is for $\frac{1}{2}$ thereof	-----	-----	11,300

NOTE.—There will be future loss because of water standing on the land.

Statement of claim—Joseph Hartl, claimant, against the United States of America

[Joseph Hartl is the owner of the SE $\frac{1}{4}$ sec. 34, T. 157, R. 66 W., of the 5th principal meridian, in the county of Towner, State of North Dakota.]

Description of land	Loss in acres from flooding	Loss per acre	Total loss
Loss in 1948: SE $\frac{1}{4}$ sec. 34	60	20	\$1,200
Loss in 1949: SE $\frac{1}{4}$ sec. 34	60	20	1,200
Loss in 1950: SE $\frac{1}{4}$ sec. 34	70	20	1,400
Loss in 1951: SE $\frac{1}{4}$ sec. 34	40	20	800
Loss in 1952: No loss from flooding	-----	-----	-----
Loss in 1953: SE $\frac{1}{4}$ sec. 34	40	20	800
Loss in 1954: SE $\frac{1}{4}$ sec. 34	150	25	3,750
(70 acres plant, other prepared for flax on summerfallow land.)	-----	-----	-----
Grand total loss	-----	-----	9,150

NOTE.—There will be future loss because of water standing on the land.

Statement of claim—Dorothy Gessner, against the United States of America

[Dorothy Gessner is the owner of lots 3, 4, 5, 6, and 11 of sec. 2, in T. 156, R. 66 W., of the 5th principal meridian in Chain Lakes Township, county of Ramsey, State of North Dakota, containing 144 56/100 acres, more or less, since and including the year 1951]

Description of land	Loss in acres from flooding	Loss per acre	Total loss
Loss in 1951: Lots 3, 4, 5, 6 and 11, sec. 2.....	30	\$20	\$600
Loss in 1952: Lots 3, 4, 5, 6, and 11, sec. 2.....	30	20	600
Loss in 1953: Little or no flooding.....			
Loss in 1954: Lots 3, 4, 5, 6, and 11, sec. 2..... (Seeded to hard wheat in 1954.)	120	20	2,400
Grand total loss.....			3,600

NOTE.—There will be future loss because of water standing on the land.

Statement of claim—Roy Cowan, claimant, against the United States of America

[Roy Cowan is the owner of the NE $\frac{1}{4}$ sec. 26, E $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 26, and SW $\frac{1}{4}$ sec. 26 T. 156, R. 66 W. 5th principal meridian in Chain Lakes Township, county of Ramsey, State of North Dakota]

Description of land	Loss in acres from flooding	Loss per acre	Total loss
Loss in 1948:			
NE $\frac{1}{4}$ sec. 26.....	50	\$20	\$1,000
E $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 26.....	30	20	600
SW $\frac{1}{4}$ sec. 26.....	120	20	2,400
Total.....			4,000
Loss in 1949:			
NE $\frac{1}{4}$ sec. 26.....	50	20	1,000
E $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 26.....	30	20	600
SW $\frac{1}{4}$ sec. 26.....	120	20	2,400
Total.....			4,000
Loss in 1950:			
NE $\frac{1}{4}$ sec. 26.....	50	20	1,000
E $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 26.....	30	20	600
SW $\frac{1}{4}$ sec. 26.....	120	20	2,400
Total.....			4,000
Loss in 1951:			
NE $\frac{1}{4}$ sec. 26.....	40	20	800
E $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 26.....	25	20	500
SW $\frac{1}{4}$ sec. 26.....	100	20	2,000
Total.....			3,300
Loss in 1952: Little loss, no claim made therefor.....			
Loss in 1953: Little loss, no claim made therefor.....			
Loss in 1954:			
NE $\frac{1}{4}$ sec. 26.....	50	30	1,500
E $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 26.....	35	30	1,050
SW $\frac{1}{4}$ sec. 26.....	125	30	3,750
Total.....			6,300
(Land was planted to barley and wheat in 1954.)			
Grand total loss.....			21,600

NOTE.—There will be future loss because of water standing on the land.

Statement of claim—C. N. Barrett, agent for owners of land, claimant, against the United States of America

[C. N. Barrett is the agent of the owners of the NE $\frac{1}{4}$ sec. 34, T. 156, R. 66 W., of the 5th principal meridian in Chain Lakes Township, county of Ramsey, State of North Dakota, and is duly authorized to make the following claim for the years including 1948 up to the present time, the said land having been rented on a 50-50 basis to Reuben Overland during said period.]

Description of land	Loss in acres from flooding	Loss per acre	Total loss
Loss in 1948: NE $\frac{1}{4}$ sec. 34.....	160	\$20	\$3,200
Loss in 1949: NE $\frac{1}{4}$ sec. 34.....	160	20	3,200
Loss in 1950: NE $\frac{1}{4}$ sec. 34.....	160	20	3,200
Loss in 1951: NE $\frac{1}{4}$ sec. 34.....	160	20	3,200
Loss in 1952: Little loss, no claim made therefor.....			
Loss in 1953: Little loss, no claim made therefor.....			
Loss in 1954: NE $\frac{1}{4}$ sec. 34.....	160	30	4,800
Grand total, loss on land.....			17,600
Total loss suffered by claimant, $\frac{1}{2}$ thereof.....			8,800

NOTE.—There will be future loss because of water standing on the land.

Statement of claim—L. A. Anderson, claimant, against the United States of America

[L. A. Anderson is the owner of the S $\frac{1}{2}$ NW $\frac{1}{4}$ and the S $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 24, and the SE $\frac{1}{4}$, and the S $\frac{1}{2}$ NE $\frac{1}{4}$ and Lots 1 and 2 of Section 23, and Lot 4 of Section 14, all in Township 156, Range 66 West, of the 5th Principal Meridian in Chain Lakes Township, County of Ramsey, State of North Dakota]

Description of land	Loss in acres from flooding	Loss per acre	Total loss
Loss in 1948:			
S $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 24.....	30	\$20	\$600
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 24.....	30	20	600
SE $\frac{1}{4}$ sec. 23.....	20	20	400
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 23.....	55	20	1,100
Lots 1 and 2, sec. 23.....	54	20	1,080
Lot 4, sec. 14.....	15	20	300
Total.....			4,080
Loss in 1949:			
S $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 24.....	50	\$20	1,000
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 24.....	50	20	1,000
SE $\frac{1}{4}$ sec. 23.....	55	20	1,100
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 23.....	55	20	1,100
Lots 1 and 2, sec. 23.....	54	20	1,080
Lot 4, sec. 14.....	15	20	300
Total.....			5,580
Loss in 1950:			
S $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 24.....	50	20	1,000
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 24.....	50	20	1,000
SE $\frac{1}{4}$ sec. 23.....	55	20	1,100
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 23.....	55	20	1,100
Lots 1 and 2, sec. 23.....	54	20	1,080
Lot 4, sec. 14.....	15	20	300
Total.....			5,580
Loss in 1951:			
S $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 24.....	50	20	1,000
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 24.....	50	20	1,000
SE $\frac{1}{4}$ sec. 23.....	55	20	1,100
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 23.....	55	20	1,100
Lots 1 and 2, sec. 23.....	54	20	1,080
Lot 4, sec. 14.....	15	20	300
Total.....			5,580
Loss in 1952: Little loss, no claim made therefor.....			
Loss in 1953: Little loss, no claim made therefor.....			
Loss in 1954:			
S $\frac{1}{2}$ NW $\frac{1}{4}$ sec. 24.....	65	30	1,950
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 24.....	65	30	1,950
SE $\frac{1}{4}$ sec. 23.....	75	30	2,250
S $\frac{1}{2}$ NE $\frac{1}{4}$ sec. 23.....	60	30	1,800
Lots 1 and 2, sec. 23.....	54	30	1,620
Lot 4, sec. 14.....	15	30	450
Total.....			10,020
Loss by reason of 3 $\frac{1}{2}$ miles of fence damaged by flooding.....			350
Grand total loss.....			31,190

NOTE.—There will be future loss because of water standing on the land.